

EXHIBIT 1-B
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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

IN RE: FACEBOOK, INC., MDL No. 2843
CONSUMER USER PROFILE Case No.
LITIGATION 18-md-02843-VC-JSC

This document relates to:
ALL ACTIONS

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ZOOM DEPOSITION OF FACEBOOK's 30(b)(6)
CORPORATE REPRESENTATIVE - DAVID MILLER
(Reported Remotely via Video & Web Videoconference)
Los Angeles, California (Deponent's location)
Friday, July 22, 2022
Volume 1

STENOGRAPHICALLY REPORTED BY:
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Washington CCR No. 3491
JOB NO. 5300521(b)
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ALL ACTIONS

DEPOSITION OF DAVID MILLER, taken on
behalf of the Plaintiffs, with the deponent located
in Los Angeles, California, commencing at
12:41 p.m., Friday, July 22, 2022, remotely
reported via Video & Web videoconference before
REBECCA L. ROMANO, a Certified Shorthand Reporter,
Certified Court Reporter, Registered Professional
Reporter.

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John Macdonell, Videographer

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I N D E X

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1 Los Angeles, California; Friday, July 22, 2022

2 12:41 p.m.

3 ---o0o---

4

5 THE VIDEOGRAPHER: Okay. We're on the 12:41:09

6 record. It's 12:41 p.m. Pacific Time on

7 July 22nd, 2022.

8 This is the deposition of David Miller.

9 We're here in the matter of Facebook Consumer

10 Privacy User Profile Litigation. 12:41:23

11 I'm John Macdonell, the videographer,

12 with Veritext.

13 Before the reporter swears the witness,

14 would counsel please identify themselves, beginning

15 with the noticing attorney, please. 12:41:35

16 MR. GOULD: My name is Benjamin Gould

17 with Keller Rohrbach LLP, and I am representing the

18 plaintiffs in the proposed class.

19 MR. SCHWING: Austin Schwing -- I'm

20 sorry. My voice is shot. 12:41:53

21 (Discussion off the stenographic record.)

22 MR. SCHWING: Austin Schwing,

23 Gibson, Dunn & Crutcher. I represent the

24 defendant.

25 And with me are Ian Chen, Cassarah Chu, 12:42:06

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1 Felisha Miles, Shaquille Grant, Kelly Herbert, and 12:42:12

2 that's all.

3 SPECIAL MASTER GARRIE: And this is

4 Special Master Daniel Garrie. I'm here on behalf

5 of the Court. 12:42:26

6 THE COURT REPORTER: Mr. Miller, if you

7 could raise your right hand for me, please.

8 THE DEPONENT: (Complies.)

9 THE COURT REPORTER: You do solemnly

10 state, under penalty of perjury, that the testimony 12:22:22

11 you are about to give in this deposition shall be

12 the truth, the whole truth and nothing but the

13 truth?

14 THE DEPONENT: Yes, I do.

15 12:22:22

16

17

18

19

20 12:22:22

21

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24

25 ///// 12:22:22

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1 DAVID MILLER, 12:22:22
2 having been administered an oath, was examined and
3 testified as follows:
4
5 EXAMINATION 12:42:45
6 BY MR. GOULD:
7 Q. Good afternoon, Mr. Miller. Thanks for
8 making yourself available.
9 Rather than showing you the notice of
10 deposition and the subtopic on which you've been 12:43:01
11 designated to testify, I -- I will just ask you,
12 you've been designated by Facebook to testify on
13 its behalf on a topic that is related to video
14 content on the Facebook Platform, correct?
15 A. Yes. 12:43:27
16 MR. SCHWING: I'm sorry. Just for the
17 record, just -- not across all video content and
18 all content -- I don't want to be difficult, Ben,
19 but like that -- that's just too --
20 MR. GOULD: No, no, I get it -- 12:43:41
21 MR. SCHWING: That's not what he's here
22 to talk about.
23 MR. GOULD: Sure. Right.
24 Q. (By Mr. Gould) And Mr. Miller, you --
25 you realize that your testimony here is on behalf 12:43:50

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1 of Facebook, correct? 12:43:55

2 A. That's correct.

3 Q. And by "Facebook," I should clarify,
4 like, I mean Meta and everything under that general
5 umbrella. 12:44:07

6 Okay if I use "Facebook" to refer to
7 that?

8 A. I'm -- I'm okay with that.

9 MR. GOULD: Okay. Fabulous.

10 I'm having a really hard time hearing 12:44:17
11 Mr. Miller. Is anyone -- is that true for anybody
12 else or am I the only one?

13 THE VIDEOGRAPHER: Yeah. If you want to
14 go off the record real quick, we can change it to
15 his cell phone audio. 12:44:26

16 MR. SCHWING: I've got a -- can we just
17 go in a breakout room and I'll chat with tech folks
18 and we -- I -- and there may be another computer we
19 can use, or something like that, and we just try to
20 figure this out real quick. 12:44:37

21 MR. GOULD: Sure. Of course. Of course.

22 THE VIDEOGRAPHER: Okay. We're off the
23 record. It's 12:44 p.m.

24 (Recess taken.)

25 THE VIDEOGRAPHER: Okay. We're back on 12:50:04

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1 the record. It's 12:50 p.m. 12:50:05

2 THE DEPONENT: You're on mute.

3 MR. GOULD: Thank you, Mr. Miller. I

4 appreciate it.

5 Q. (By Mr. Gould) So currently, Facebook 12:50:22

6 users are able to upload videos to the

7 Facebook Platform; is that correct?

8 A. That's correct.

9 Q. Okay. When did Facebook first enable its

10 users to upload video content to the platform? 12:50:43

11 A. In 2006.

12 Q. When did the Facebook Platform begin, if

13 you know?

14 A. With -- do you mean with respect to

15 video? 12:51:10

16 Q. No, I'm -- I'm sorry.

17 When did -- when did like the Facebook

18 social media platform like come into existence?

19 Was -- was it -- it was before 2006,

20 right? 12:51:24

21 A. Before video -- do you mean before video?

22 Q. Yeah. Before video.

23 A. Before 2006.

24 Q. Okay. Sorry. I'm just trying to get

25 some perspective on -- on what sort of time we're 12:51:39

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1 talking about. 12:51:41

2 So is it fair to say that quite early,
3 though, in Facebook's existence, it enabled its
4 users to upload video to the platform?

5 MR. SCHWING: Vague. 12:51:56

6 THE DEPONENT: What -- how are you
7 defining the beginning of Facebook's existence?

8 Q. (By Mr. Gould) Sure.

9 Do you know when Mark Zuckerberg created
10 Facebook? 12:52:14

11 A. Approximately.

12 Q. When?

13 A. Say around -- around 2005.

14 Q. Right.

15 And like if I remember correctly, 12:52:30
16 initially, for some period, it was only people with
17 an .EDU email address who were able to access the
18 platform.

19 Am I -- am I right about that?

20 MR. SCHWING: That's outside the scope 12:52:48
21 of the -- the deposition.

22 Q. (By Mr. Gould) If -- if you don't know,
23 you can say you don't know.

24 A. I'm -- sorry. Can you repeat the
25 question. 12:52:55

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1 Q. Sure. 12:52:56

2 If I remember correctly, there was some
3 period around 2005/2006, when only people with an
4 .EDU email address were able to create an account
5 on -- on Facebook? 12:53:17

6 MR. SCHWING: It's outside the scope of
7 the deposition.

8 THE DEPONENT: I -- I remember there was
9 a time where some affiliation with a school was
10 required, but that's all I know. 12:53:31

11 Q. (By Mr. Gould) Fair enough.

12 When was Facebook's initial public
13 offering?

14 MR. SCHWING: It's outside the scope of
15 the deposition. 12:53:41

16 THE DEPONENT: Oh, I don't -- I don't --
17 I don't remember the date of the IPO.

18 Q. (By Mr. Gould) Fair enough.

19 Do you know what changes had to be made
20 to the Facebook Platform initially in order for its 12:54:01
21 users to be able to upload video?

22 A. Some examples of what happened in 2006
23 would be the ability to, say, upload a movie file.
24 And -- and after a user would share a movie file,
25 if other users wanted to watch that movie file, 12:54:35

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1 some rendering capabilities, some movie play, some 12:54:40
2 video play, movie file play, some video play
3 capabilities would have to have been added to the
4 platform.

5 Q. And by "movie file," do you mean a file 12:54:55
6 that ends with .MOV?

7 A. That's what I meant. There are other
8 video files. For example, today there are .MP4
9 files. But that's what I meant by a .MOV file.

10 Q. And so initially, in 2006, is it the case 12:55:20
11 that only .MOV files were enabled to be uploaded,
12 do you know?

13 A. Here -- here's what I can say. You could
14 also in 2006 -- so let me -- let me clarify.

15 In 2006, a link to a video that was on 12:55:41
16 another website could be added. The files
17 themselves could be uploaded, so the video files
18 themselves. And the extensions, I don't remember.

19 But, you know, for all intents and
20 purposes, these are -- these are -- these are 12:56:01
21 things that render video. The files themselves
22 could be uploaded in 2007.

23 Q. Okay. So it was in -- okay.

24 So prior to 2007, users could link to
25 videos somewhere else on the Web, but not upload 12:56:26

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1 THE DEPONENT: I'm done. 12:58:10

2 Q. (By Mr. Schwing) Okay. What were the
3 first entry points to be created after 2007?

4 A. So I -- I actually don't know the first
5 entry points that were created after 2007, but I 12:58:36
6 can describe entry points that exist today.

7 Q. Please -- please do. Thank you.

8 A. So the ways that you can upload video to
9 the platform were directly on the profile, directly
10 on the page. 12:58:58

11 Today, for example, if you went to
12 Facebook, you could -- you don't have to go to a
13 profile or a page to upload video. You could
14 upload it from, say, newsfeed directly. You could
15 record from newsfeed. 12:59:24

16 There -- other things that I'm aware of
17 today are some Facebook tools that give those who
18 want to produce, or those who want to upload video,
19 the ability to do that.

20 Today some of those are called, Meta -- 12:59:48
21 Meta Business Suite, Creator Studio.

22 Q. Anything else that you can think of?

23 A. The other thing that I can think of is
24 the -- the fact that you can live stream on -- on
25 Facebook, and you can do these things from, say, 01:00:19

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1 the app, the mobile app, or from the desktop. 01:00:24

2 So as an example, most of the things I
3 mentioned have a desktop version and an app
4 version.

5 Q. When did Facebook first make it possible 01:00:41
6 for users to upload videos using the newsfeed?

7 A. I -- I don't recall when.

8 Q. Can you give an approximate year or -- or
9 years?

10 A. No. I -- I would be speculating. 01:01:10

11 Q. Okay. Was it before 2015?

12 A. Again, I -- I mean, I -- I know it's live
13 today and -- and I don't know. I -- you know,
14 sitting here today, I -- I don't.

15 Q. Okay. And you mentioned that Facebook 01:01:39
16 enables users to record videos from their newsfeed,
17 correct?

18 A. Right.

19 Q. When was that functionality first
20 enabled, if you know? 01:01:54

21 A. No. Similar to the upload of the -- of
22 the file itself, I -- I can't say exactly when the
23 live -- or when the -- when the -- you know, on
24 platform record.

25 What I can say is that -- and I can -- I 01:02:15

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1 can talk about different parts of -- I -- I can 01:02:19
2 talk about, say, when you could go live on
3 Facebook. But regarding the feed, I -- I don't
4 recall exactly when.

5 Q. Fair enough. I'm just trying to be 01:02:31
6 exhaustive here.

7 Do you know when the newsfeed was first
8 introduced?

9 A. I recall newsfeed being introduced in
10 2006. 01:02:46

11 Q. Okay. You mentioned Facebook tools that
12 give people the ability to upload video to the
13 Facebook Platform, right?

14 A. Yeah, I mentioned.

15 Q. What, generally, is a Facebook tool? 01:03:08

16 MR. SCHWING: It's vague.

17 You can answer, if you know, if you can.

18 THE DEPONENT: The way I think of tools
19 would be an ability to perform a function or an
20 action on the Facebook Platform. 01:03:27

21 Q. (By Mr. Gould) And is it -- let's focus
22 on -- on the two specific tools you mentioned; the
23 Meta Business Suite -- Suite and the
24 Creator Studio.

25 What functionality does the Meta 01:03:54

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1 Business Suite enable, insofar as uploading videos 01:03:57
2 is concerned?

3 A. So an example would be accessing the --
4 the video file, uploading it to Facebook's
5 platform. That's, you know, a very standard upload 01:04:19
6 process.

7 Q. And the Meta Business Suite is designed
8 to make that process seamless for the business
9 that's using it?

10 A. For the user or entity that's using it, 01:04:38
11 the -- the goal is to make it easy to do that.

12 Q. You mentioned Creator Studio.
13 What does the Creator Studio enable users
14 to do?

15 A. Similar -- regarding video, similar 01:05:03
16 ability to upload.

17 Q. And, again, it's designed to make that
18 uploading process easy?

19 A. Yeah.

20 Q. Okay. Does the Meta Business Suite give 01:05:19
21 the user the ability to record videos as well?

22 A. So in -- in the preparation that I did,
23 around the -- the changes that -- that Facebook
24 made to allow users to share and interact with
25 video, I -- I focused most of my preparation on 01:05:47

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1 what -- what general users can do. And, you know, 01:05:50
2 as -- as opposed to the professional tools that
3 you're mentioning.

4 Q. Okay. Is Creator Studio one of the
5 professional stu- -- tools? 01:06:02

6 Okay.

7 A. Yeah, I -- I would think of it that way.

8 Q. Okay. I'm just going to ask just to
9 be -- just to see if you know.

10 Does Creator Studio enable the user to 01:06:15
11 record video content?

12 A. I -- I couldn't say for sure.

13 Q. Fair enough.

14 Forgive me if I already asked you this.

15 When were those two tools created, if you 01:06:42
16 know?

17 A. I don't remember when those two tools
18 were created.

19 Q. Were those two tools created before 2017,
20 do you think? 01:06:55

21 A. So in the preparation that I did to allow
22 for users to share and -- and -- and view and
23 interact with video on Facebook, I didn't focus my
24 preparation on the professional tools.

25 Q. Okay. Fair enough. 01:07:15

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1 MR. SCHWING: Vague -- vague as to time. 01:09:27

2 MR. GOULD: Sure.

3 MR. SCHWING: I'm trying to be actually

4 kind of helpful here, Ben. I don't know if you --

5 MR. GOULD: Yeah. No. No. You -- thank 01:09:35

6 you. Thank you.

7 MR. SCHWING: Now versus when -- some

8 other time.

9 MR. GOULD: Sure.

10 MR. SCHWING: But do you want to know 01:09:39

11 now?

12 Q. (By Mr. Gould) Currently, where are

13 the -- what are the surfaces where users can access

14 video content uploaded by another user?

15 A. Got it. 01:09:50

16 So I mentioned newsfeed. And there's a

17 tab which is just video only. That's another

18 surface.

19 Q. Can I stop you there?

20 A. Sure. 01:10:08

21 Q. Is that a tab on newsfeed?

22 A. It's a tab on the platform itself.

23 Q. Okay.

24 A. So I think of newsfeed as a tab, and I

25 think of a separate tab, yeah. 01:10:17

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1 Q. Okay. Sorry for interrupting you. 01:10:19

2 Please go on.

3 A. No, no worries.

4 Q. If you want me to repeat the question,

5 I'm happy to, by the way. 01:10:27

6 A. Oh, no, I -- I remember.

7 Q. Okay.

8 A. A user can search for a video. So I

9 would say -- I would say that that -- that's part

10 of the ways that a user can access video. 01:10:40

11 A user could go to someone's profile,

12 if -- if the -- if -- video. A user could go to a

13 page. Page can also share or post a video file.

14 A user could receive a video file from

15 someone else in a Messenger conversation. 01:11:13

16 Q. Any other surfaces you can think of?

17 A. I'm thinking.

18 Q. Oh, sure. Go ahead.

19 A. Another surface I can think of is

20 something we call stories. So when -- when the 01:11:34

21 user is in their newsfeed, sometimes there's a

22 horizontal scroll or tray of -- like I said,

23 these are -- these are posts that -- that will

24 expire. Some of them are video.

25 And a user could go to groups on 01:12:00

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1 Facebook. They -- you're part of a group. You can 01:12:09
2 upload a video to a group and say a group member
3 can also see video there.

4 And --

5 Q. Yeah. 01:12:28

6 A. -- and sit -- sitting here today, that --
7 that's all I recall.

8 Q. When did Facebook first enable users to
9 search for videos?

10 A. I -- I believe that video search came 01:12:42
11 about -- let me think -- sometime in 2016.

12 Q. Was there a search function that Facebook
13 had before 2016?

14 A. If -- if it wasn't involved -- I mean, as
15 far as what I prepared on the topic of video, my -- 01:13:17
16 in my education and -- and in my prep, I do recall
17 learning about the -- the ability to search for
18 video on 2016. I think it's fair to assume that
19 search existed. But I -- I couldn't say because it
20 would go before the research that I conducted. 01:13:44

21 Q. And you spoke of a video tab; is that --
22 am I remembering correctly?

23 A. Right. I mentioned a video tab.

24 Q. When was the video tab introduced to the
25 Facebook Platform? 01:13:58

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1 A. The video tab launched in 2016. 01:14:02

2 Q. 20- -- I'm sorry. Say that again. I
3 apologize.

4 A. 2016.

5 Q. Okay. When -- sorry. 01:14:14

6 Is it fair to say that users were first
7 able to upload videos to their profile in 2006?

8 A. I think that what we said was -- or what
9 you and I talked about was, in 2006, you could post
10 a link to a video. And in 2007, you could -- you 01:14:41
11 could -- you could share a video file.

12 Q. In 2007, could you upload a video to your
13 profile on Facebook?

14 A. I think that -- I mean, it depends on how
15 you define "profile." 01:15:10

16 So as an example, are you -- are you
17 saying that as an owner of a profile, you post
18 like, hey, here's a -- here's a great video I saw.

19 Q. Exactly.

20 When was that first enabled? 01:15:30

21 A. Well, yeah. So I would say that that is
22 the -- the 2007 launch I talked about. So -- so,
23 you know, feed existed. But it could be shown in
24 feed. You could see it in the profile. But really
25 it's -- it's the profile that's sharing the video 01:15:51

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1 at that time. 01:15:54

2 Q. Understood.

3 When did Facebook first enable users to

4 send and receive video files via

5 Facebook Messenger? 01:16:08

6 A. So Messenger video files or -- or links

7 to videos, I recall came out in 2008.

8 Q. You -- I don't want -- I'm not trying to

9 be difficult. I -- you talked about two different

10 things. You talked about video files and you 01:16:36

11 talked about links to videos.

12 Are you saying that in 2008, that was

13 when Messenger enabled users to send and receive

14 both video files and links to videos?

15 A. So I -- no, I don't -- I don't think that 01:16:55

16 you're being difficult.

17 I -- definitely links. And for files

18 themselves, if it didn't happen then, it would have

19 been around that time.

20 Q. Okay. When did Facebook introduce 01:17:09

21 stories?

22 A. Stories came out in 2017.

23 Q. And from the beginning, was it the case

24 that stories could include videos? Video content?

25 A. If stories didn't include video content 01:17:38

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1 at its launch, it would have been not too long 01:17:41

2 after that.

3 Q. When did Facebook first enable users to
4 create groups?

5 A. Groups with video or groups without 01:18:02
6 video?

7 Q. Just to give a picture of the timeline,
8 let's say just groups without video.

9 MR. SCHWING: It's outside the scope.

10 If you know, go ahead. 01:18:16

11 THE DEPONENT: So -- but I -- I think I
12 get what you're asking, Ben.

13 And so based on the preparation I did,
14 groups video started in 2010.

15 Q. (By Mr. Gould) Okay. Great. 01:18:33

16 So currently, Facebook enables users to
17 access video content on multiple different
18 surfaces, correct?

19 A. That's correct.

20 Q. Okay. Is it Facebook's intention to make 01:19:03
21 it easy for viewers to access video content on the
22 platform?

23 A. What -- what I'll say is -- or -- or the
24 way I think about it is Facebook makes it easy to
25 access almost any kind of content that a user wants 01:19:23

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1 to share on the platform. 01:19:27

2 And I think we -- we think of the -- the
3 content as video and/or photos and/or text and/or
4 links. And we want to make everything, including
5 video, easy to access. 01:19:47

6 Q. We talked about multiple different
7 surfaces to test video content, right?

8 A. Right.

9 Q. Okay. Currently, do all of those
10 surfaces provide the same ways for users to 01:20:23
11 interact or share that video content?

12 A. So if you mean -- or let's talk about
13 sharing. If you mean sharing and the existence of
14 a share button, very -- very similar -- sure --
15 across all -- across all the surfaces we talked 01:20:46
16 about.

17 And then what else were you asking?

18 Q. Interacting with.

19 So if I use the term "reaction," do you
20 know what I'm referring to? 01:21:01

21 MR. SCHWING: Vague.

22 THE DEPONENT: I do.

23 MR. SCHWING: And potentially calls for
24 speculation. I mean...

25 Q. (By Mr. Gould) And in the context of the 01:21:12

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1 Facebook Platform, you know, if I'm using the 01:21:13
2 term -- or excuse me.

3 In the context of the Facebook Platform,
4 what does the term "reaction" refer to?

5 A. So specifically in the preparation that I 01:21:24
6 did for how users can interact, a reaction would be
7 the ability to go to the video post that's been
8 shared and click a button where you could like or
9 have a few other reactions to that video post.

10 Q. When did Facebook first enable users to 01:22:02
11 like uploaded video content?

12 A. Users could first upload -- sorry.
13 Users could first like video content in
14 2009.

15 Q. Okay. You mentioned there are currently 01:22:31
16 reactions other than liking, correct?

17 A. Right.

18 Q. Do you have any sense of when those other
19 reactions were introduced to the Facebook Platform?

20 A. Other reactions besides like came out in 01:22:55
21 2016.

22 Q. And I don't think I've asked this
23 question, but you referred to a share button where
24 you -- I think -- where -- where users could click
25 it and share a video with some other user; is that 01:23:26

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1 correct? 01:23:29

2 A. Right.

3 Q. Okay. When was that share button
4 introduced for uploaded videos?

5 A. Share came out in 2012. 01:23:45

6 Q. What are the video formats that Facebook
7 currently allows users to upload?

8 A. So Facebook allows users to upload most
9 video formats, I think the most popular of which
10 would be .MP4 files. Movie files. 01:24:21

11 I -- it's the -- it's the common video
12 files that I think we all know of and think of when
13 it comes to movie files.

14 Q. Let -- let me then ask the question this
15 way. 01:24:51

16 Can you think of a commonly used format
17 for video content that Facebook does not enable
18 users to upload to the platform currently?

19 MR. SCHWING: That's vague.

20 THE DEPONENT: I -- it would be hard for 01:25:11
21 me to think of a commonly used video format that
22 Facebook doesn't allow for upload.

23 Q. (By Mr. Gould) Okay. Are you familiar
24 with -- sorry.

25 Was it the case that over the years 01:25:39

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1 Facebook has increased the number of and kind of 01:25:42
2 video content formats it enables users to upload to
3 the platform?

4 MR. SCHWING: Compound and vague.

5 THE DEPONENT: For -- I mean -- sorry. 01:26:01
6 Can you...

7 Q. (By Mr. Gould) Yeah. Sure.

8 Has -- over -- over the years -- you know
9 what, let me be more specific.

10 Since 2007 -- 01:26:11

11 A. Okay.

12 Q. -- has Facebook increased the number of
13 video content formats it enables users to upload?

14 A. Here's -- here's how I think about that.

15 If -- if there wasn't a video format in 01:26:29
16 2007, that came out later, then -- and -- and it
17 was not known to the -- say, to the -- the user
18 community, or wasn't used by the user community but
19 came out later, it's very likely that Facebook
20 would make it available for upload. 01:26:55

21 Q. So in other words, Facebook made an
22 effort to make -- to enable users to upload
23 commonly used video formats as soon as possible
24 after those formats came into common use?

25 MR. SCHWING: Vague. 01:27:20

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1 THE DEPONENT: Yeah. It -- it's hard for 01:27:20
2 me to -- to qualify what "as soon as possible"
3 means. But what -- you know, based on my
4 preparation, where -- and -- and based on what is
5 it that Facebook Platform wants to do about video, 01:27:35
6 so really it's -- it's about, okay, what -- what
7 types of -- how do we allow users to have a good
8 experience on the platform. And before video, we
9 talked about, say, photos.

10 After video became a more commonly used 01:28:02
11 and -- and more, say, accessible way of
12 expressing -- in service of a good user experience,
13 if there were video that was commonly used by what
14 I would call the -- the general user base of
15 Facebook, sure. 01:28:38

16 I mean, that would be -- that would --
17 that would be something that would improve the user
18 experience because that's all that our sharing
19 platform is trying to do.

20 If it's -- if it's a video file that you 01:28:52
21 have and you feel that it's important for you to
22 share it with others, I think it's in the best
23 interests of the user experience and the user --
24 and users, in general, to allow for the user to be
25 able to share it on the platform. 01:29:12

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1 Q. (By Mr. Gould) So let me know if I'm 01:29:15
2 charac- -- characterizing your -- your testimony
3 correctly.

4 When a video format became commonly used
5 by the general user base of Facebook, Facebook 01:29:38
6 would make an effort to ensure that users could
7 upload video content in that format to the
8 Facebook Platform; is that a fair characterization
9 of at least part of your testimony?

10 MR. SCHWING: Vague. 01:30:02

11 THE DEPONENT: Say -- try -- try me one
12 more time on that question.

13 Q. (By Mr. Gould) Yeah, of course. Of
14 course.

15 Tell me whether you think the following 01:30:07
16 is correct: Once a video format became commonly
17 used by the general user base of Facebook, Facebook
18 would make an effort to ensure that users could
19 upload video content in that format to the
20 Facebook Platform. 01:30:28

21 A. I --

22 MR. SCHWING: I'm sorry. Just for
23 clarity, you're asking if that's his previous
24 testimony or you're asking if he agrees --

25 (Simultaneously speaking.) 01:30:38

HIGHLY CONFIDENTIAL

1 MR. GOULD: I'm just asking whether you 01:30:39
2 would -- whether what I just said is accurate.

3 MR. SCHWING: Okay. Thank you.

4 THE DEPONENT: I -- I wouldn't let --
5 let me -- sorry. Let -- I wouldn't say that was 01:30:46
6 accurate, only -- only because I'm not an expert
7 in, say, how movie theaters work. I don't know how
8 other video files -- you know, what we define as
9 commonly used.

10 Say, for example, there are some 01:31:08
11 sophisticated -- say, for example, a movie theater
12 is using some -- I don't know -- pla- -- some
13 plastic film or some other digital -- you know,
14 that's -- Mr. Gould, you could say that that's
15 popular because a lot of people go to the movies. 01:31:30
16 But that wouldn't be something that our -- that the
17 Facebook Platform would be rushing to be compatible
18 with.

19 So I -- I just -- I didn't want -- I -- I
20 felt that -- I felt that your statement was a 01:31:50
21 little broad.

22 Q. (By Mr. Gould) Sure.

23 So by commonly used by the general user
24 base of Facebook, I am excluding video formats that
25 are used -- even commonly used by video content 01:32:05

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1 professionals, if they are not commonly used by 01:32:16
2 others.

3 Under that definition of commonly used
4 video formats by the general user base of Facebook,
5 is it accurate to say that once a video format that 01:32:34
6 is commonly used by the general user base of
7 Facebook becomes commonly used by the general user
8 base of Facebook, Facebook has made an effort to
9 ensure that users can upload videos in that format
10 to the Facebook Platform? 01:33:00

11 MR. SCHWING: The question is vague.

12 THE DEPONENT: I -- I -- here -- here's
13 how I would -- I would put it. Because I didn't --
14 I don't want to -- I don't want to make a statement
15 that -- that -- that -- of course that's not true. 01:33:14

16 And so for example, users who are --
17 users who are avidly using some other -- I didn't
18 want to make that professional or that, you know,
19 amateur distinction. And I can imagine amateurs
20 are -- are -- there are still amateurs that are 01:33:41
21 showing video off of plastic film. And that's not
22 something that the Facebook Platform is investing
23 in, like uploading or converting and --

24 Q. (By Mr. Gould) By plastic film --

25 A. Like -- 01:33:58

HIGHLY CONFIDENTIAL

1 Q. You mean -- yeah. 01:33:59

2 (Simultaneously speaking.)

3 MR. SCHWING: Let him finish.

4 THE DEPONENT: Like -- so the way I would
5 characterize it, Mr. Gould, is video on the 01:34:04
6 Facebook Platform is really just another means of
7 expression or entertainment and -- and so on and so
8 forth.

9 So imagine when, say, a new consumer
10 device came out and became popular -- maybe we 01:34:28
11 could talk about the iPhone for an example -- for
12 instance. And I don't remember how popular video
13 files from iPhone -- or the format that was used
14 before and after iPhone.

15 But if there was a change in the way 01:34:50
16 that -- the way that consumers could access either
17 technology or -- or make digital video files in
18 service of -- get -- allowing users to share that
19 with, you know, whomever they want as part of what
20 the mission of the Facebook Platform is, we would 01:35:21
21 put effort into making that easy or seamless or
22 frictionless.

23 Q. (By Mr. Gould) Okay.

24 A. So I felt that your other statement was a
25 little broad, and I felt more comfortable with 01:35:41

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1 saying what I just told you. 01:35:45

2 Q. Okay. What changes to its infrastructure
3 has Facebook made since 2007 to facilitate the
4 uploading and sharing of video content?

5 MR. SCHWING: The question is vague. 01:36:18

6 THE DEPONENT: I -- I understand -- I
7 think I understand what you're asking.

8 And the way I think about it is from the
9 time that Facebook allowed for video on the
10 platform, let's -- let's say maybe 2007. And I 01:36:36
11 think you're asking me from -- are you asking me
12 from 2007 through today infrastructure changes that
13 have -- and then I'll let -- is that what you're
14 asking me and --

15 Q. (By Mr. Gould) Right. Right. So let me 01:36:52
16 then rephrase.

17 A. Right.

18 Q. I'm asking about infrastructure changes
19 from 2007 to the present that have been made in
20 order to facilitate access to -- 01:37:05

21 A. Right.

22 Q. -- uploading or sharing of video content.

23 Is that a subject you're prepared to --
24 to talk about?

25 MR. SCHWING: I guess -- 01:37:25

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1 THE DEPONENT: Without getting into too 01:37:27
2 much detail about the -- the changes themselves,
3 here's what I am prepared to talk about.

4 If you just look at the amount of
5 video -- or maybe in this case we'll call it 01:37:43
6 digital video, right, as opposed to video that we
7 were discussing -- like nondigital video that we
8 were discussing.

9 But if you think about the number of
10 users on Facebook, and if you think about whether 01:37:55
11 or not video was popular -- and, obviously, I think
12 it's fair to say that video has become a more
13 popular medium over time.

14 And if you were to compare users'
15 appetite for sharing video, you know, producing -- 01:38:14
16 making video and watching video, and if you were to
17 think about the growing popularity of video as a
18 medium and also think about the user increase, in
19 order to successfully allow users to upload video
20 and -- and -- and interact with video and watch 01:38:43
21 video on the platform, what I can tell you is
22 infrastructure improvements had to take place,
23 you know, at a high level.

24 And I'm not prepared to talk about the --
25 the technical -- I mean, if -- if I think about the 01:39:05

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1 topic that I'm prepared to talk about, the changes 01:39:11
2 that we made to allow for the ways that users
3 interact with video, of course, we want users to
4 have a successful experience.

5 So what does that mean. It means, it 01:39:25
6 doesn't -- the upload doesn't fail or the playback
7 doesn't fail.

8 So at a high level, I can only say
9 that -- a quality experience, a good user
10 experience like that is important to Facebook. So 01:39:44
11 infrastructure improvements to allow for a larger
12 number of video files being uploaded and played
13 had to have -- had to have taken place. And -- and
14 that's really the depth of the infrastructure
15 preparation that I did. 01:40:01

16 Q. (By Mr. Gould) Okay. So in order to not
17 waste your time, are you prepared to talk, at a
18 high level, about the kind -- general kinds of
19 infrastructure changes that have been made in order
20 to facilitate the access to uploading of and 01:40:18
21 sharing of video content?

22 MR. SCHWING: We haven't -- just to be
23 clear, we haven't designated Mr. Miller to talk
24 about like technical infrastructure.

25 MR. GOULD: Okay. 01:40:34

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1 MR. SCHWING: But, you know, storage or 01:40:35
2 showing video, that's not something we understood
3 that you --

4 MR. GOULD: Okay.

5 MR. SCHWING: -- you intended to ask 01:40:42
6 about. And that's not part of topic 9c, as we've
7 understood it.

8 Mr. Miller is focused on -- on the
9 actions taken, decisions made that would allow
10 people to kind of interact, like on surfaces that 01:40:55
11 he's been discussing.

12 So I hope that -- that helps to clarify.
13 He's not going to be able to talk about like the
14 servers and the server system and that kind of
15 thing. 01:41:05

16 Q. (By Mr. Gould) If I were to ask you,
17 you know, Mr. Miller, since 2007, what are the
18 major investments that Facebook has made,
19 generally, in order to facilitate user access to
20 and sharing of and uploading of video content, is 01:41:26
21 that, at a high level, a question that you're
22 prepared to answer?

23 A. I would say that the -- the lowest level
24 that I could answer is improvements in storage, in
25 coding and playback. And not -- I'm not prepared 01:41:52

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1 to talk -- I think that that would be the 01:42:03
2 high-level answer to your original question.

3 But regarding the specifics under those
4 high-level areas, I didn't find that as relevant to
5 my topic and the research that I did. 01:42:20

6 Q. Okay. What improvements since 2007 --
7 major improvements since 2007 have been made in
8 order to facilitate access to sharing of and
9 uploading of video content?

10 A. I can give examples of the way that we 01:42:52
11 recommend or rank video as a -- as basically a -- a
12 bucket of improvements that we've made.

13 Q. What -- okay. Well, then -- let me then
14 be more specific and we'll talk about maybe kinds
15 of improvements. 01:43:17

16 A. Okay.

17 Q. That might focus our discussion.

18 One of those kinds that you mentioned
19 earlier was improvements in storage.

20 Since 2007, what are the major, at a high 01:43:26
21 level, improvements that Facebook has made in order
22 to facilitate access to sharing of, uploading of
23 video content?

24 A. Oh, you -- I'm confused. You mentioned
25 storage, and then you mentioned my topic. But help 01:43:49

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1 me understand the tie between the two. 01:43:52

2 Q. Oh, sorry. I -- I -- sorry. One second.

3 I just want to -- I -- I -- because I want to make
4 sure I understood what you are and are not prepared
5 to talk about. 01:44:13

6 I -- I thought you said you -- you can
7 answer questions regarding improvements in storage,
8 in coding and in playback.

9 Am I right about that?

10 A. I don't think that that's what I said. 01:44:30

11 Q. Oh, okay.

12 A. Do -- I could restate, or maybe we can
13 restate what I had said --

14 Q. Yeah.

15 A. -- or maybe clear it up -- 01:44:42

16 Q. I mean -- well, hm.

17 MR. SCHWING: May be useful to take a
18 break. We're at about an hour and maybe we could
19 give some clarify.

20 MR. GOULD: Okay. Let's take a short 01:44:56
21 break.

22 Could -- could we make it a five-minute
23 break and be sure to be back here at -- at 1:50?

24 MR. SCHWING: Sure.

25 MR. GOULD: Okay. Thank you. 01:45:07

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1 THE VIDEOGRAPHER: Okay. We're off the 01:45:08
2 record. It's 1:45 p.m.
3 (Recess taken.)
4 THE VIDEOGRAPHER: We're back on the
5 record. It's 2:03 p.m. 02:03:10
6 Q. (By Mr. Gould) Thanks, Mr. Miller.
7 I'm -- I'm going to ask a broad question
8 and, you know, you can answer it however you can
9 answer it, and then we can go from there.
10 What are the major actions taken by 02:03:32
11 Facebook, since 2007, in order to facilitate user
12 access to uploaded video content on the platform?
13 A. At a high level, Facebook increased the
14 number of services. So we talked about that,
15 the -- the ways on Facebook app users can access -- 02:04:02
16 or where on Facebook app users can access video.
17 And also improvements in how we ranked video for
18 users.
19 Q. We'll talk a little bit more about
20 improvements and how you ranked video. 02:04:24
21 Are you talking about improvements in how
22 video was ranked on a user's newsfeed?
23 A. Yes.
24 Q. Yeah.
25 Anything -- anything else that goes under 02:04:34

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1 the heading of improvements and ranking? 02:04:35

2 A. I -- sorry. Ranking on newsfeed or
3 ranking on the other services we talked about?

4 Q. That's -- yeah. I mean, that's precisely
5 what I'm wondering, is like, when you said, how we 02:04:51
6 rank video -- when you said that phrase, did you
7 mean something other than -- or something besides
8 how video is ranked on newsfeed?

9 A. That is -- so I'm prepared to talk about
10 how video is ranked on, say, newsfeed and also, 02:05:19
11 say, the video tab.

12 MR. GOULD: Fabulous. Okay.

13 MR. SCHWING: Can I -- can I interrupt
14 for just one second.

15 (Discussion off the stenographic record.) 02:05:40

16 Q. (By Mr. Gould) What were the
17 improvements in the video ranking for the newsfeed
18 designed to do?

19 A. Ranking improvements on newsfeed were
20 designed to give users a better experience. 02:06:32

21 Q. And when we're talking about improvements
22 in ranking, are we talking about like a series of
23 improvements or like one big upgrade?

24 A. More of a series of improvements.

25 Q. Okay. Are you prepared to talk about, 02:06:55

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1 like at a high level, the major decisions or 02:06:56

2 changes that were part of that series?

3 A. At a high level, that was part of the
4 prep that I did.

5 Q. Fabulous. Great. 02:07:13

6 When did the -- these improvements to
7 ranking on a newsfeed start to be made?

8 A. We can say that one of the more important
9 changes to newsfeed's ranking happened in 2011.

10 Q. And what change was that? 02:07:43

11 A. And in that year, newsfeed ranking
12 changed from being chronological to being
13 recommendation-based.

14 Q. And how did the platform come up with
15 these recommendations -- that's a broad question. 02:08:10

16 So let's start out with, what information
17 did the platform consider in order to make these
18 recommendations?

19 A. So in 2011 or in general?

20 Q. In -- in 2011, what were the improvements 02:08:27
21 to what -- or -- yeah. What did it begin to
22 consider?

23 A. There were many changes and things that
24 the -- that the newsfeed would consider would be a
25 variety of things that it understood about the -- 02:08:49

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1 the content or the video itself, a variety of 02:08:58
2 things that it understood about what the user would
3 be interested in. Those types of things.

4 Q. And it's fair to say that the
5 consideration of these items you just mentioned was 02:09:23
6 done by machine, not by actual human beings,
7 correct?

8 A. For the vast majority of these ranking
9 changes, they were done by machine learning.

10 Q. How would -- how would the platform 02:09:55
11 determine what the content of a video itself was?

12 A. So in general -- and if you're okay with
13 a general answer to that --

14 Q. Please.

15 A. -- ways that a platform can figure out 02:10:16
16 what a video is about or what -- what was the --
17 the word you used?

18 Q. The content of the video.

19 A. The content -- the subject of the
20 content? 02:10:32

21 I -- I might have misheard you.

22 Q. Yeah. No, like -- like -- yeah. What's
23 the video about. Sure. Yeah.

24 A. Okay. Here's an example -- I'll use dogs
25 as an example, right. 02:10:49

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1 users able to give uploaded videos titles? 02:12:42

2 A. When you -- when a user would post a
3 video, you -- you can say almost anything in that
4 post.

5 So if you say, "Here's my video about 02:12:59
6 dogs," you could -- I mean, that, in a way, could
7 be the title. It's -- it's what you've said in
8 your post and the post comes with the dog video.

9 Q. So in other words, from the very
10 beginning of Facebook enabling the upload of 02:13:13
11 videos, Facebook enabled the uploader to associate
12 or attach text to the video?

13 A. Yes.

14 Q. And that hasn't changed, right?

15 A. Correct. 02:13:37

16 Q. Since 2007, what are the major actions
17 that Facebook has taken to facilitate -- sorry.

18 We just -- we just talked very generally
19 about actions that Facebook had taken since 200- --
20 major actions that Facebook had taken since 2007 to 02:14:19
21 facilitate user access to -- to videos -- to video
22 content.

23 I -- I now want to talk about like the
24 sharing of that content.

25 So what are the major actions that 02:14:33

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1 Facebook has taken, since 2007, to facilitate the 02:14:38
2 sharing of uploaded video content?

3 A. A very straightforward example of that
4 would be the -- the launch of sharing in 2012. So
5 there's a share button. That's what I was 02:15:06
6 referring to as sharing.

7 Q. From the beginning of -- sorry. Yes.
8 From the beginning of when Facebook
9 enabled users to upload video to the platform, it
10 also enabled comments on those videos, correct? 02:15:33

11 A. I think we said that comments came in
12 2010.

13 Q. Got it. Okay. Thank you.
14 And there have been comments on videos
15 then ever since 2010, right? 02:15:52

16 A. If a user commented, yes.

17 Q. When was the -- I'm sorry if I've already
18 asked you this.

19 But when was the like of an uploaded
20 video first introduced? 02:16:16

21 A. No worries.

22 Like came out in 2009.

23 Q. Okay. Are there -- currently, are there
24 any user interactions with uploaded video content
25 that like are specific to uploaded video content? 02:16:42

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1 And if I need to explain that question, 02:16:49
2 to make it clear, I'm happy to do so.

3 A. Yeah.

4 Q. Okay.

5 A. That will help. 02:16:56

6 Q. Sure.

7 Let's step back for a -- for a bit.

8 You'd agree, I guess, that like there are
9 many different kinds of posts a Facebook user can
10 make to the Facebook Platform, correct? 02:17:11

11 A. Correct.

12 Q. One kind of post would be a video --
13 excuse me -- a photo, right?

14 A. Right.

15 Q. Another would be just like text, right? 02:17:24

16 A. Yes.

17 Q. Would a status update also be a kind of
18 post?

19 A. You can think of it that way, though, I
20 should just let you know that that's not related to 02:17:44
21 video.

22 Q. Sure.

23 Another kind of post would be the user's
24 uploading of a video to the platform, right?

25 A. Agree. 02:18:01

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1 Q. Okay. So users can interact with posts 02:18:01
2 in multiple different ways, correct?

3 A. Correct.

4 Q. Okay. Were any of those ways unique to
5 video content? 02:18:22

6 A. I -- I understand what you were asking.
7 The answer is yes.

8 Q. And what are those ways?

9 A. Some examples would be mute. Unmute,
10 right. 02:18:43

11 Is that --
12 (Simultaneously speaking.)

13 Q. (By Mr. Gould) Sure.

14 A. -- what you're asking?

15 Q. Yeah, totally. 02:18:48
16 Anything else?

17 A. Full screen, right. Change the volume.
18 I think that those are good examples.

19 Q. I assume play and pause also?

20 A. Yes. 02:19:16

21 Q. Any other interactions that you can think
22 of --

23 A. Yeah.

24 Q. -- that are unique to video content?

25 A. Sitting here today, you can save a video. 02:19:31

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1 I -- I don't know if that's unique, though. So 02:19:35
2 maybe -- maybe I wouldn't say that that's unique.
3 You can -- I'm just trying to think here.
4 An example of a comment, say, on a live
5 video, would be -- could be time-stamped; is 02:20:02
6 that -- that -- that's an interaction that is
7 slightly different from --
8 Q. Sure.
9 A. -- say, a static post.
10 Let me think if I can think of other 02:20:20
11 ones.
12 Q. Sure. Take your time.
13 A. An inter- -- another interaction that
14 might be different for video than, say, the other
15 ones, would be the time you spend watching it. 02:20:31
16 Q. That is something that Facebook tracks,
17 in other words?
18 A. Yes.
19 Q. Okay. If I were to speak of Facebook's
20 user interface for uploaded videos, would you know 02:21:12
21 what I meant?
22 MR. SCHWING: Calls for speculation.
23 THE DEPONENT: May- -- I might.
24 Q. (By Mr. Gould) Okay.
25 A. I mean -- yeah. 02:21:23

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1 Q. Okay. 02:21:24

2 A. Let me know...

3 Q. Okay. Then let me ask it this way.

4 A. Yeah.

5 Q. Like, does Facebook have a user interface 02:21:29

6 that is specific to uploaded video content?

7 A. I think I know what you're asking.

8 Q. Okay.

9 A. For example, a player -- a player could

10 be said to be unique to a video. And it has, like 02:21:47

11 you said, a play or a pause button, and that

12 interface is different for, say, photos and text,

13 et cetera.

14 Q. And Facebook has a proprietary video

15 player, correct? 02:22:08

16 A. I -- what -- what do you mean by --

17 Q. I -- I mean --

18 A. -- video player?

19 Q. -- it -- it uses Facebook-designed

20 software in order to play uploaded videos for users 02:22:24

21 who want to watch such videos.

22 Correct?

23 A. Yes.

24 Q. When was that software first designed, if

25 you know? 02:22:45

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1	A. Well, video was first displayed on the	02:22:50
2	platform in 2006 with the -- the rendering of those	
3	videos that were on the other websites. And one	
4	could say that would be the beginning of the	
5	Facebook video player.	02:23:14

6 Q. In 2007, when Facebook started to allow
7 users to upload video to the platform, other users
8 who wanted to access that video could play those
9 uploaded videos, right?

Q. And the -- in 2007, the player used to
play those videos, was that a Facebook-designed
player?

14 A. I -- I actually don't know.

15 Q. Okay. Okay. Do you know whether -- or
16 excuse me.

17 Do you know what, if any, major changes
18 have been made to the Facebook video player over
19 the years?

HIGHLY CONFIDENTIAL

1 some cases, you can change where you want to go in 02:25:08

2 the video.

3 Q. Right.

4 A. That -- I'm speaking to the normal video

5 play technologies that I think everybody is used 02:25:21

6 to. The difference or --

7 (Discussion off the stenographic record.)

8 THE DEPONENT: Okay.

9 Q. (By Mr. Gould) Sorry, Mr. Miller.

10 A. So -- okay. Give me a second. 02:26:01

11 Q. Sure.

12 A. The -- the movement or where you want to

13 go in the video, sometimes we call that a scrubber

14 and -- oh, fast-forward. Rewind.

15 These things -- or move ahead 02:26:24

16 by ten seconds, these are -- these normal video

17 interactions -- these, what I would call typically

18 video player interactions, I -- I wouldn't be able

19 to say what that evolution was on the player

20 between day zero and today. 02:26:45

21 Q. Fair to say that over the years

22 improvements have been made to the Facebook video

23 player?

24 A. Yes.

25 Q. And the goal of those improvements is, I 02:26:59

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HIGHLY CONFIDENTIAL

1 assume, to improve the user experience of those 02:27:06

2 videos, right?

3 A. That is correct.

4 Q. To make video play seamless with the rest

5 of the Facebook Platform, right? 02:27:16

6 MR. SCHWING: Vague.

7 THE DEPONENT: Well, the way I'd phrase

8 it is to have an enjoyable video consumption

9 experience.

10 Q. (By Mr. Gould) You mentioned a scrubber, 02:27:35

11 correct?

12 A. Right.

13 Q. The -- a move ahead button, correct?

14 A. Right.

15 Q. I'll -- I'll -- I'll just list a few 02:27:49

16 others.

17 Move behind button. Fast-forward.

18 Rewind. You referenced those in -- in reference

19 to -- to uploaded video, correct?

20 A. Yes. 02:28:01

21 Q. All of those interactions that I just

22 listed are, I take it, unique to video content on

23 the Facebook Platform, as opposed to other kinds of

24 content, correct?

25 A. Let -- yeah. Let me -- let me think 02:28:15

HIGHLY CONFIDENTIAL

1 about that for one second. 02:28:17

2 Those -- couple -- couple things.

3 Q. Sure.

4 A. So when I -- when I said skip ahead

5 ten seconds, when I said go back ten seconds, 02:28:31

6 that's what I meant by forward and rewind.

7 Q. I get it.

8 A. Yeah.

9 But, you know, that list that you

10 mentioned, those interactions are unique to video 02:28:43

11 content.

12 Q. Okay. You mentioned that Facebook tracks

13 time spent watching videos, right?

14 A. That is correct.

15 MR. SCHWING: Sorry. It's outside the 02:29:16

16 scope of the deposition.

17 Q. (By Mr. Gould) When did it first begin

18 to do that?

19 MR. SCHWING: It's outside the scope of

20 the deposition. 02:29:23

21 There's another witness that's been

22 designated to testify on that subject.

23 If you know, you can answer.

24 THE DEPONENT: So I -- I would be

25 speculating as to when that started. 02:29:42

HIGHLY CONFIDENTIAL

1 As I sit here today -- or as I -- as I 02:29:48
2 understand the product today, I know we track it.
3 But it's -- that's not -- when we started tracking
4 metrics wasn't relevant, as far as I saw, to how we
5 allow users to -- 02:30:06

6 MR. GOULD: No, I get it.

7 THE DEPONENT: Yeah. Yeah.

8 MR. GOULD: So I just want to state this
9 for the -- for the record. And, again, I don't
10 mean to be combative and this is not a criticism of 02:30:15
11 the witness.

12 When I asked Facebook's designee for
13 subtopic a, and subtopic b, whether there were
14 years in which time spent watching videos was
15 tracked, other than those shown on the 02:30:41
16 spreadsheets, he was unable to answer that
17 question.

18 Q. (By Mr. Gould) The other thing I want to
19 ask about is the live stream videos on the
20 Facebook Platform. 02:31:01

21 When did Facebook first enable users
22 to -- and here I specifically mean users -- to live
23 stream video content on the Facebook platform?

24 A. Users could live stream live video
25 content in 2016. 02:31:31

HIGHLY CONFIDENTIAL

1 Q. When were third-party apps first enabled 02:31:39
2 to live stream video content on the
3 Facebook Platform?

4 A. I -- I apologize. I'm not the right
5 person to talk about third-party apps. 02:31:56

6 Q. Okay. I'm going to go through a few of
7 the reactions we talked about in reference to
8 uploaded video. And I want to see whether they --
9 they are also -- they -- they are also made
10 available for live streamed video. 02:32:18

11 Mute, unmute, I assume, it is also an
12 interaction that's made available for live stream
13 video, correct?

14 A. Yes.

15 Q. Same with full screen? 02:32:30

16 A. Yes.

17 Q. Change volume, same?

18 A. Yes.

19 Q. Is time spent watching a live streamed
20 video also tracked by Facebook? 02:32:47

21 MR. SCHWING: It's outside of the scope.

22 Q. (By Mr. Gould) You can answer, if you
23 know.

24 A. I know it's tracked.

25 Q. Okay. To what extent does the scrubbing 02:32:57

HIGHLY CONFIDENTIAL

1 interaction apply to a live streamed video? 02:33:11

2 I mean, how -- to what extent can you use
3 that for a live stream video?

4 A. I'll -- I'll answer that in two ways.

5 One, is a live stream video, after it's 02:33:28
6 no longer live, it can be shown to a user.

7 It comes with a heading on it, like
8 Benjamin Gould was live. And I don't -- I mean,
9 technically, it's a prerecorded live and -- but you
10 could scrub. 02:33:56

11 The other example would be, Mr. Gould, if
12 you were streaming live and I were watching you
13 stream live, I can go back a -- a little bit. I
14 can't fast-forward while you're live. But I could
15 catch up to where -- where you were -- where you 02:34:18
16 were in real-time.

17 Q. Right.

18 A. Does that -- yeah.

19 Q. And same with move ten seconds ahead,
20 move ten seconds behind, if a live streamed video 02:34:29
21 has been saved to the platform, those interactions
22 can be used on that video, correct?

23 A. Correct.

24 Q. Okay. And is it -- is it the case that
25 when a video is being live streamed, a user, who is 02:34:48

HIGHLY CONFIDENTIAL

1 watching that video, has the option of selecting a 02:34:53
2 move ten seconds back interaction?

3 A. My -- from my best understanding, yes.

4 Q. Okay. Can a user, who is live
5 streaming -- or excuse me -- who is watching a live 02:35:13
6 stream video, select rewind?

7 A. Sorry. Let me clarify something I said
8 earlier.

9 Q. Sure.

10 A. Rewind would be, go ten seconds back. 02:35:26

11 Q. Oh. Oh, okay. I see. Got it.

12 A. There -- there's no rewind button, but
13 there is go back ten seconds.

14 Q. Okay. And here I'm talking about for any
15 video on the Facebook Platform, does Facebook 02:35:44
16 enable users to speed up or slow down the playback
17 of that video?

18 A. I know I've seen some tests -- let me
19 think for a second.

20 Q. Sure. 02:36:11

21 A. If it's live or -- I'm not sure if it's
22 live in production. I'm aware of some experiments,
23 but I -- I would have to just -- I would have to
24 look at it to see if it's actually live in
25 production. 02:36:35

HIGHLY CONFIDENTIAL

1 Q. Okay. By "some tests," you mean Facebook 02:36:35
2 has experimented with such a tool, but hasn't
3 introduced it to the platform, correct?

4 A. That -- that's what I meant by -- so for
5 example, maybe the test would be -- here's a 02:37:00
6 functionality that would be given to a set of
7 users.

8 But, you know, I -- I -- I would actually
9 have to check to say is that generally available
10 to -- you know, as the normal player. And, 02:37:17
11 you know, sitting here today, off the top of my
12 head, I -- I don't know if that's one of the
13 controls.

14 Q. Okay. Are you familiar with a product
15 called Facebook Watch? 02:37:48

16 A. Yes.

17 Q. What is or was Facebook Watch?

18 A. Facebook Watch is the name that was
19 given -- or I would call it the brand name given to
20 the video tab. 02:38:09

21 Q. Does Facebook produce its own video
22 content?

23 A. Can you like -- can you -- or define
24 "produce"? Help me a little bit.

25 Q. Sure. Sure. 02:38:36

HIGHLY CONFIDENTIAL

1 Well, let me ask you this, are there any 02:38:46
2 groups or divisions within the Facebook company
3 whose main responsibility is -- is the user
4 experience of video content?

5 MR. SCHWING: It's vague. 02:39:15

6 THE DEPONENT: Yeah. I -- I was going to
7 ask you a clarification.

8 So I could use a little bit more clarity
9 on the word "video content."

10 Q. (By Mr. Gould) Sure. 02:39:25

11 A. Use a little bit more clarity on the word
12 "user experience."

13 Q. Sure.

14 For purposes of this question --

15 A. Uh-huh. 02:39:34

16 Q. -- I'm talking about uploaded video and
17 live streamed video, whether or not that live
18 streamed video is live streaming, or was live
19 streaming, and then saved to the platform.

20 I'm including those things. 02:39:56

21 Is there another type of video content
22 that's available on the Facebook Platform that you
23 can think of?

24 A. Start back with the -- the ones you
25 mentioned. I'll -- let's -- I want to be -- 02:40:12

HIGHLY CONFIDENTIAL

1 Q. Yeah. Sure. 02:40:15

2 A. -- I want to be sure.

3 Q. Videos uploaded by user's pages --

4 A. Okay.

5 Q. -- groups, right. 02:40:21

6 A. Got that.

7 Q. Okay. Live streamed videos, that would

8 be another type of this group I'm talking about.

9 Another type would be -- if we want to

10 classify it as a separate category, I suppose, live 02:40:38

11 streamed videos that are then saved to the

12 Facebook Platform and are available on demand.

13 Is --

14 A. Those three?

15 Q. Yeah. 02:40:51

16 Is -- is there another type of video

17 content available on the Facebook Platform that

18 does not fall under one of the headings I just

19 mentioned?

20 A. Is there -- I -- I'm sorry. 02:41:10

21 Is there another type of video content?

22 Q. Yeah.

23 A. I could think of a video call on

24 Messenger as maybe not falling under those.

25 Q. Anything else? 02:41:26

25 | A. I don't have the interface in front of 02:43:32

HIGHLY CONFIDENTIAL

1 me. But if you go to your page or profile, or -- 02:43:34

2 or whatnot, you can -- you can go live from there.

3 Q. Okay. Can you go live from the newsfeed?

4 A. I -- I don't know if you can go live from

5 the newsfeed. 02:43:58

6 MR. SCHWING: Can I beg your indulgence

7 to have 20 seconds before you ask your next

8 question. I just need to do something --

9 MR. GOULD: Sure. Sure. Of course, you

10 can. 02:44:37

11 MR. SCHWING: Okay. Thank you.

12 MR. GOULD: Yeah, no problem.

13 Q. (By Mr. Gould) Let's see here. Does

14 Facebook enable a user page or group that has

15 uploaded a video to track how many people have 02:45:32

16 watched that video?

17 MR. SCHWING: It's outside the scope.

18 THE DEPONENT: So if a user or a page

19 entity, whatever, has uploaded a video, just about

20 anybody can see how many views it's gotten. 02:46:10

21 Q. (By Mr. Gould) And I would assume that

22 this number of views metric would have to be unique

23 to video content on Facebook, correct?

24 A. That's correct.

25 Q. Okay. Has -- has Facebook partnered or 02:46:36

HIGHLY CONFIDENTIAL

1 entered into any venture that you can think of with 02:46:53

2 a media company to produce original video content?

3 MR. SCHWING: It's outside of the scope

4 of the deposition.

5 THE DEPONENT: I'm -- I'm aware of such 02:47:16

6 original content.

7 Q. (By Mr. Gould) What are those third

8 parties that Facebook has partnered with to provide

9 such content, if you know?

10 MR. SCHWING: Outside the scope of the 02:47:35

11 deposition.

12 THE DEPONENT: That's correct. I do not

13 know.

14 Q. (By Mr. Gould) Okay. Fair enough.

15 Am I right in -- in surmising that you 02:47:43

16 know that Facebook has partnered with third parties

17 to provide original video content, but you don't

18 know what that content is or who those third

19 parties are?

20 MR. SCHWING: Same objection. 02:48:01

21 THE DEPONENT: I don't know who the

22 parties -- sorry.

23 I don't know who the partners are, but I

24 know of a show called Red Table Talk.

25 Q. (By Mr. Gould) And that's a show that 02:48:15

HIGHLY CONFIDENTIAL

1 has been produced by Facebook in partnership with a 02:48:19
2 third party?
3 MR. SCHWING: That's outside the scope.
4 THE DEPONENT: I believe --
5 MR. SCHWING: I'm sorry. Hang on. 02:48:28
6 Mr. Miller, you're faster than I am.
7 THE DEPONENT: Sorry.
8 MR. SCHWING: Outside the scope of the
9 deposition.
10 Go ahead. 02:48:36
11 THE DEPONENT: Sorry. Mr. Gould, you'll
12 have to repeat that. I'm sorry.
13 Q. (By Mr. Gould) Sure. Yeah. No, no
14 problem.
15 You mentioned a show called 02:48:47
16 Red Table Talk, right?
17 A. Correct.
18 Q. And that's a show that has been produced
19 by Facebook in partnership with a third party?
20 A. Maybe I just don't know what the word 02:49:04
21 "produced" means.
22 Can you rephrase it?
23 Q. Sure.
24 By "produce," in this context -- oh,
25 sorry. 02:49:18

HIGHLY CONFIDENTIAL

1 Is it a scripted show? 02:49:18

2 A. I --

3 MR. SCHWING: Outside of the scope --

4 outside of the scope of the deposition.

5 THE DEPONENT: I don't know what that 02:49:26

6 means. Sorry.

7 Q. (By Mr. Gould) Yeah. Sure.

8 Are there human beings in the show called

9 Red Table Talk?

10 MR. SCHWING: Same objection. 02:49:39

11 THE DEPONENT: I know there are humans in

12 the show, Red Table Talk.

13 Q. (By Mr. Gould) And when they speak, are

14 they speaking lines from a script or are they doing

15 something other than that? 02:49:59

16 MR. SCHWING: Same objection.

17 THE DEPONENT: I don't know the answer to

18 your question.

19 Q. (By Mr. Gould) Okay. Okay. Fair

20 enough. 02:50:08

21 To what extent can you speak today on --

22 on what has caused the amount of video content

23 available on the Facebook Platform to increase or

24 decrease over the years?

25 Is that a subject that you're prepared 02:50:56

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1 to -- to speak about today, to some degree? 02:50:58

2 A. Only to a small degree.

3 Q. Well, let's just see how far we can get.

4 If you wouldn't mind, Mr. Miller, going

5 to the -- the -- the Veritext Exhibit Share here 02:51:17

6 and opening -- opening Exhibit 619.

7 A. I am --

8 MR. SPRINGER: I'm copying that now.

9 THE DEPONENT: Oh, thanks.

10 Q. (By Mr. Gould) Let me know when you're 02:51:56

11 there. Take your time.

12 A. So I'm in a folder called Marked

13 Exhibits -- oh, never mind.

14 I see an Excel file. I'm opening up an

15 Excel file. 02:52:12

16 Q. Fabulous.

17 A. Okay.

18 Q. Let me know once it -- okay. So --

19 A. It's a table.

20 Q. Okay. So this appears to be an Excel 02:52:21

21 file with two columns, the first denoting "year"

22 and the second being labeled "video_sends,"

23 correct?

24 A. I see that.

25 Q. Okay. Do you have any sense of the 02:52:41

HIGHLY CONFIDENTIAL

1 metrics that you are looking at -- at -- on this 02:52:47

2 table?

3 MR. SCHWING: It's outside the scope of

4 the deposition.

5 THE DEPONENT: I -- I have two things to 02:52:59

6 say about --

7 Q. (By Mr. Gould) Of course, please.

8 A. -- about the exhibit.

9 I reviewed all of the documents that were

10 sent to me. I don't remember seeing this as one of 02:53:09

11 them.

12 Q. Sure.

13 Okay. What was the second thing you

14 wanted to say?

15 A. I have no idea what this is. 02:53:20

16 Q. Oh, okay. Okay. Fair enough.

17 Okay. Fair to say then that if I were to

18 ask you about similar tables displaying

19 video-content-related metrics, you wouldn't be able

20 to speak knowledgeably about those; is that 02:53:50

21 correct?

22 I don't want to waste your time.

23 A. That's correct.

24 Q. Okay. Okay. So then let me ask you a

25 more qualitative question and see if -- 02:54:07

HIGHLY CONFIDENTIAL

1 A. Yeah. 02:54:10

2 Q. -- this is sort of within your area of --
3 of preparation.

4 Is it fair to say that since 2007, the
5 amount of video content available on the 02:54:21
6 Facebook Platform has greatly increased?

7 MR. SCHWING: Vague.

8 THE DEPONENT: When you say "amount" --

9 Q. (By Mr. Gould) Sure.

10 A. -- could I -- 02:54:40

11 Q. Sure.

12 If I were to say "volume of video
13 content," would that be easier to understand?

14 A. I --

15 MR. SCHWING: It's vague. 02:54:50

16 THE DEPONENT: Amount and -- did you mean
17 the number of videos on the platform or did you
18 mean how much video was being watched on the
19 platform?

20 Q. (By Mr. Gould) Let's talk first about 02:55:09
21 how much video is uploaded to the platform.

22 Is it fair to say that since 2007, the
23 amount of video uploaded to the platform has
24 greatly increased?

25 MR. SCHWING: Calls for -- it's outside 02:55:29

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HIGHLY CONFIDENTIAL

1 the scope of the deposition. 02:55:31

2 THE DEPONENT: What I would say is it has
3 increased. I -- I don't have the data, but it's
4 increased.

5 Q. (By Mr. Gould) Okay. And what, in 02:55:40
6 Facebook's view, has caused that increase?

7 A. So based on --

8 MR. SCHWING: Sorry. It's outside the
9 scope of the deposition.

10 If you know, you can answer. 02:56:04

11 MR. GOULD: Sorry, Mr. Miller. I will
12 reask the question.

13 But I just want to say, for the record,
14 that -- that this was a topic that -- when
15 questioning Facebook's designee on subtopics 9a and 02:56:16
16 9b, I explicitly noted that I hoped Mr. Miller
17 would be able to cover.

18 Q. (By Mr. Gould) I'll reask the question.

19 A. Sure.

20 Q. The question was -- so we were talking 02:56:34
21 about an increase in the amount of video content
22 uploaded to the platform, and I asked you, what, in
23 Facebook's view, has caused that increase?

24 A. Based on my preparation, where I looked
25 at major things that Facebook did to allow users to 02:56:56

HIGHLY CONFIDENTIAL

1 access video on the platform, interact, et cetera, 02:57:03
2 in my preparation -- or based on my preparation, I
3 would say that the increased number of surfaces
4 where a video has shown, the improved ranking of
5 those videos, the number of users that have come to 02:57:24
6 Facebook since 2006 through today, those are
7 factors that have increased the amount of video on
8 the platform.

9 Q. Is it fair to say that since 2007, the
10 amount of user engagement with video content has 02:58:02
11 markedly increased?

12 Do you want me to define "engagement"?
13 I'm happy to.

14 A. Sure.

15 Q. Okay. By "engagement," I -- I mean 02:58:16
16 something like the degree of participation and
17 communication an individual has within an online
18 community.

19 Okay. So understanding that that is
20 the -- my working definition of "engagement," is it 02:58:40
21 correct to say that the amount of user engagement
22 with video content on the Facebook Platform has
23 markedly increased since 2007?

24 A. Yeah --

25 MR. SCHWING: Sorry. It's -- we're 02:59:02

HIGHLY CONFIDENTIAL

1 getting a message from the Special Master I just 02:59:06
2 saw, "I need to restart my machines. Be right
3 back." So I guess we can --
4 MR. GOULD: Let's go off the record then.
5 THE VIDEOGRAPHER: Okay. We're off the 02:59:17
6 record. It's 2:59 p.m.
7 (Recess taken.)
8 THE VIDEOGRAPHER: We're back on the
9 record. It's 3:08 p.m.
10 Q. (By Mr. Gould) I just want to go through 03:08:20
11 a few other video-content-related functionality
12 that seems to be available on the
13 Facebook Platform.
14 Does Facebook make available to users a
15 video editor? 03:08:39
16 A. Some of those professional tools I
17 mentioned has video editing.
18 Q. Is there such a thing as a basic video
19 editor?
20 A. In newsfeed, when you make a video, you 03:09:02
21 can do basic editing.
22 Q. Can you tell me what functionalities are
23 available on that basic video -- video editing
24 thing?
25 A. So I'll -- I'll call it the basic video 03:09:19

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HIGHLY CONFIDENTIAL

1 editing tool. 03:09:25

2 Q. Fabulous.

3 A. And examples would be -- oh, clipping,

4 you know, chopping off. You can add a sound like

5 an audio track. And you can add like a filter. 03:09:42

6 Change some of the ways it looks. And then you can

7 add some text.

8 Q. When was this basic editing tool first

9 made available to users?

10 A. I -- I don't know -- the basic editing 03:10:14

11 that I just mentioned?

12 Q. Uh-huh.

13 A. I don't know when it -- when it was first

14 made available.

15 Q. Okay. Fair to say that a tool named 03:10:23

16 basic video editing is unique to video content,

17 correct?

18 MR. SCHWING: Lacks foundation.

19 THE DEPONENT: If I understood your

20 question, though, the things that I mentioned, 03:10:52

21 like, for example, clipping, clipping wouldn't

22 apply to, say, a photo. So -- but photos, you can

23 still do some filters.

24 So given that ambiguity, did you want to

25 rephrase anything? 03:11:18

HIGHLY CONFIDENTIAL

1 Q. (By Mr. Gould) Yeah. Of course. 03:11:19

2 The clipping -- the clipping
3 functionality in the basic editing tool is
4 inherently unique to video content, correct?

5 A. Correct. 03:11:42

6 Q. Okay. Oh, and you mentioned an audio
7 track tool, correct --

8 A. Correct.

9 Q. -- or audio track -- track functionality
10 that's part of this basic video editing tool, 03:12:01
11 correct?

12 A. Correct.

13 Q. Is that in any way unique to video
14 content?

15 A. So you can add audio to a -- like a 03:12:18
16 sequence of photos. So I -- I wouldn't say that
17 audio would be unique.

18 Q. But with that qualification, that you can
19 also use it -- you can also have it added to a
20 sequence of photos, then it's accurate to say that 03:12:45
21 adding an audio track is something you, as a
22 Facebook user, can do to video content and a
23 sequence of photos, but no other kind of content?

24 A. You know, I can definitely say that you
25 can add audio to video -- sorry -- an audio track 03:13:14

HIGHLY CONFIDENTIAL

1 to video. 03:13:19

2 Q. Okay.

3 A. But beyond video -- yeah.

4 Q. Can you add captions to a video that you

5 upload? 03:13:39

6 Let me know if you want me to define

7 that.

8 A. I --

9 MR. SCHWING: Outside -- outside the

10 scope of the deposition, which relates to access 03:13:47

11 interactions with video.

12 Go ahead, if you know.

13 Q. (By Mr. Gould) Do you want me to -- do

14 you want me to define what I mean by "captions"?

15 A. I -- I -- sure. 03:13:58

16 Q. Okay. What I mean by "captions" is text

17 that is designed to enable better access to video

18 content by persons with hearing disabilities.

19 Under that definition of "captions," can

20 you add -- can a Facebook user add captions to 03:14:30

21 uploaded video?

22 A. Yes.

23 Q. Does Facebook have auto-generated

24 captions for any of its uploaded -- for any video

25 content that is uploaded by Facebook users? 03:14:53

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HIGHLY CONFIDENTIAL

1 A. I'm thinking. 03:15:08

2 Q. Sure.

3 A. I'm trying to figure out -- so video
4 content that's uploaded to Facebook can have
5 auto -- software-generated captions displayed on 03:15:23
6 it.

7 Q. And do you know what determines whether a
8 given piece of video content will have
9 software-generated captions?

10 A. I want to say a couple things. 03:15:54

11 Q. Sure.

12 A. So being prepared to talk about how video
13 was shown to users and how users can interact with
14 it, most of my preparation is on the user
15 consumption side, right. Users have -- users 03:16:08
16 consuming video.

17 Based on my knowledge, I don't know all
18 the reasons for why or why not a video would have
19 captions on it.

20 Q. Fair enough. 03:16:33

21 Do you happen to know when
22 software-generated captions were first made
23 available or introduced on the Facebook Platform
24 for video content?

25 A. No. 03:16:46

HIGHLY CONFIDENTIAL

1 Q. Okay. Have you heard the term 03:16:46
2 "thumbnail" in relation to video content on the
3 Internet?

4 A. Yes.

5 Q. When it's used in relation to video 03:17:06
6 content on the Internet, what is a thumbnail?

7 MR. SCHWING: It's vague.

8 THE DEPONENT: My -- my definition?

9 Q. (By Mr. Gould) Yes. Sure. Your
10 definition. 03:17:20

11 A. To me, a thumbnail is a static image that
12 shows on top of whatever real estate on the screen
13 is -- is representing where the video would show.
14 So you haven't played the video, it's a static
15 image before you play it. 03:17:45

16 Is that your understanding?

17 Q. Right.

18 So let me -- let me see if I'm -- I'm
19 characterizing this correctly.

20 As -- as you understand the term 03:17:57
21 "thumbnail" then, it -- it means a static image
22 that, before video content is played, shows the
23 availability of that video content to a user; is
24 that about right?

25 A. I -- I don't know what you mean by 03:18:21

HIGHLY CONFIDENTIAL

1 "availability." But -- I'm -- I'm getting a gist, 03:18:23

2 but I -- I got hung up on the word "availability."

3 Q. Sure. Sure. Sure. Let me then -- let
4 me rephrase it.

5 As you understand it, does a thumbnail 03:18:35
6 refer to a static image displayed to a user, before
7 video content is played, that shows that certain
8 video content exists on a given platform, Web page,
9 whatever?

10 MR. SCHWING: It's vague. 03:19:11

11 THE DEPONENT: Mr. Gould, can I rephrase?

12 Q. (By Mr. Gould) Yeah. Sure. Please,
13 yeah. I'll bet you'll do a much better job than I
14 can.

15 A. I think there was two parts to that. 03:19:20

16 My understanding of a thumbnail is if
17 there is a video that is playable, before it plays,
18 and there's a play button, you -- sometimes you can
19 see a static image behind -- behind that play
20 button. 03:19:46

21 But I got hung up on the word
22 "availability." I -- to me, the presence of a play
23 button is what signifies the availability of a
24 video with or without a thumbnail.

25 Q. Got it. 03:20:01

HIGHLY CONFIDENTIAL

1 A. But -- 03:20:04

2 Q. Okay. So -- sorry. I -- then -- I'm
3 just trying to create a clean record here.

4 A thumbnail, under your understanding, is
5 a static image that sometimes appears behind a play 03:20:14
6 button or video content on the Internet?

7 A. Behind a play button -- repeat the
8 sentence. Behind a play button...

9 Q. Sure.
10 Under your understanding, a thumbnail is 03:20:35
11 a static image that sometimes appears behind a play
12 button on video content, on the Internet, before
13 the video content is played?

14 A. That's my understanding.

15 Q. Okay. A user page or group, or just 03:20:51
16 uploader of video content onto Facebook, can such
17 an uploader select the thumbnail they wish to use
18 for that video?

19 A. There are circumstances where they can.

20 Q. Okay. What are those circumstances? 03:21:20

21 A. I'm not aware of all the circumstances or
22 what's available in, say, the professional tools we
23 talked about, only because the focus was on how we
24 make video accessible to users, and I -- I didn't
25 prepare on the -- the production side. 03:21:48

HIGHLY CONFIDENTIAL

1 Q. Sure. 03:21:53

2 So then, presumably, you're not prepared

3 to answer when the ability to select a thumbnail

4 first became available to a user who uploads video

5 content to the Facebook Platform? 03:22:11

6 You can't answer that. Okay.

7 A. I wouldn't know.

8 Q. Okay. Fair enough.

9 Correct me if I'm wrong, but I believe

10 you characterized Facebook Watch as synonymous with 03:22:25

11 the video's tab surface that you had spoken about

12 earlier in this deposition.

13 Am I right?

14 A. Almost.

15 Q. Okay. How would you characterize 03:22:48

16 Facebook Watch then?

17 A. So in 2017, Facebook announced the launch

18 of Facebook Watch, which was a video tab, and this

19 is a tab where users can go to consume just video

20 content. 03:23:16

21 Q. Okay. Did a video tab exist before

22 Facebook Watch?

23 A. Yes.

24 Q. Okay. And how long was that video tab

25 around before Facebook Watch? 03:23:33

HIGHLY CONFIDENTIAL

1 A. About a year. 03:23:38

2 Q. Okay. And before Facebook Watch, but

3 during the existence of the video tab that preceded

4 it, did a -- did the -- did the video tab surface

5 provide only video content to the user? 03:23:56

6 A. Can you -- you -- you -- can you repeat

7 the type of -- I think you said --

8 Q. Yeah. Sure.

9 A. I didn't want to mess up on the time

10 frame. 03:24:12

11 Q. No, it's fine.

12 A. You said --

13 Q. You said that the video tab was around

14 for about a year before the introduction to

15 Facebook Watch, correct? 03:24:21

16 A. Correct.

17 Q. During that approximately year period,

18 did that video tab provide video-only content to

19 the user?

20 A. Yes. 03:24:38

21 Q. Okay. I think we touched on a feature

22 called Facebook Live, correct?

23 A. Correct.

24 Q. Okay. How would you characterize

25 Facebook Live? 03:25:01

HIGHLY CONFIDENTIAL

1 How would you describe it to somebody who 03:25:02
2 wanted to know what it was?

3 A. I would describe it as the ability for
4 you to live stream whatever off of your camera and
5 share it with whomever you would choose on the 03:25:26
6 Facebook Platform.

7 Q. And then if you so choose, you can save
8 that live streamed video to the Facebook Platform?

9 A. Sorry. As -- as the producer of that
10 content or as the -- 03:25:48

11 Q. As the producer of that content.

12 A. Yes.

13 Q. Okay. Can consumers of that content also
14 save that video content?

15 A. So in general, a user can save a video, 03:26:03
16 and it would show up in their saved videos part of
17 the Facebook Platform, including -- including the
18 was live version of what you mentioned.

19 Q. Before the Facebook Live feature of --
20 was it possible to live stream video on the 03:26:29
21 Facebook Platform?

22 A. I -- I don't -- well, sorry. Repeat the
23 question.

24 Q. Sure. Yeah.

25 You said Facebook Live began in 2017, 03:26:47

HIGHLY CONFIDENTIAL

1 right? 03:26:50

2 A. 2016.

3 Q. Sorry. 2016.

4 Okay. Before the introduction of

5 Facebook Live, was it possible to live stream video 03:26:58

6 on the Facebook Platform?

7 A. Yes.

8 Q. Okay. And what were the ways in which it

9 was possible to live stream video on the

10 Facebook Platform before the introduction of 03:27:17

11 Facebook Live?

12 A. Some pages -- some pages could stream

13 live.

14 Q. Any other ways in which live stream to

15 video could be made accessible to Facebook users on 03:27:44

16 the Facebook Platform, before the introduction of

17 Facebook Live?

18 A. Not -- not -- not to my knowledge, before

19 what I just mentioned about some pages.

20 Q. Sure. 03:28:00

21 When did some pages first become enabled

22 to stream live video?

23 A. In 2015.

24 Q. And was it Facebook -- sorry.

25 Was there some criterion by which some 03:28:37

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HIGHLY CONFIDENTIAL

1 pages could live stream videos before 03:28:42

2 Facebook Live, but others couldn't?

3 A. Yes.

4 Q. And what was that criterion, or criteria,

5 maybe? 03:28:54

6 A. Right.

7 These pages had to be trustworthy. And I

8 know an example that would be, they would be

9 verified.

10 Q. So -- and by "verified," what do you 03:29:14

11 mean?

12 A. At a -- at a high level, it's here's a

13 person or a page that really is who they say they

14 are.

15 For example, let's say that 03:29:40

16 Benjamin Gould is a famous actor. Nobody wants an

17 imposter to create a page, "Hey, I am

18 Benjamin Gould, the famous actor." And so there's

19 some offline process, that I don't know the details

20 about, based on my preparation, but it's really 03:30:04

21 just, yup, this is the -- this is the person or

22 actor, or whatever, that it's -- it's -- it's

23 pretending to be. This is really them.

24 Q. We talked about a functionality that

25 allowed users to save videos on the consumer side, 03:30:30

HIGHLY CONFIDENTIAL

1 right? 03:30:36

2 A. Correct.

3 Q. Okay. How long has that functionality

4 been around?

5 A. A user could save a video to, you know, 03:30:45

6 their saved whatevers in -- in 2014.

7 Q. Okay. Are you familiar with any features

8 made available to somebody who is live streaming on

9 the Facebook Platform?

10 A. What -- 03:31:40

11 Q. What do I mean by "features"?

12 A. Yeah. And -- and do you -- you know,

13 exclusively to the live streamer or app -- sorry.

14 Q. Yes. So -- so what features or

15 functionalities that pertain solely to the live 03:31:52

16 stream are made available to somebody who is live

17 streaming on the Facebook Platform?

18 A. So one example would be the live streamer

19 could create an event. "Hey, I'm going to go live

20 at this time." 03:32:29

21 Q. Can they add a donate button, say, if

22 they are doing a fundraiser?

23 A. I believe so.

24 Q. Can they add captions for the hearing

25 impaired? 03:32:48

1 A. What time period? 03:32:52

2 Q. For any time period.

3 A. Sorry. Well, here's what I will say.

4 You can live stream, captions can show.

5 I don't remember when captioning was available for 03:33:05

6 live streaming.

7 Q. But it currently is available for live

8 streaming?

9 A. It's currently available for

10 live streaming. 03:33:19

11 Q. And what you're saying is you -- you

12 don't know when that was first introduced?

13 A. Correct.

14 Q. Okay. Is there a polls functionality

15 that's made available to people who are live 03:33:28

16 streaming video on Facebook?

17 A. So there's a --

18 Q. O-L -- sorry. P-O-L-L-S. Sorry.

19 A. No, I -- I caught the gist. And I know

20 what feature you're talking about. 03:33:49

21 You can launch a poll. I don't know if

22 it's still available, but -- it might be. But

23 there were times when it was, if not still.

24 Q. Is there a watch parties feature

25 available on Facebook? 03:34:24

1 A. I don't think that feature is available 03:34:30
2 anymore.

3 Q. Was there a watch parties feature
4 available on Facebook at any time?

5 A. Yes. 03:34:41

6 Q. Do you know when it was available?

7 A. I don't remember when it was made
8 available.

9 Q. And you don't know -- but -- sorry.
10 You know it is no longer available? 03:34:58

11 A. I don't think it's any longer available.

12 Q. Okay. And you don't know when it was
13 made no longer available also, correct?

14 A. Let me think about it for a second.

15 Q. Sure. 03:35:09

16 A. It was no longer available -- what I can
17 say is some point after 2019, it was no longer
18 available. But specifically when, I'm not sure.

19 Q. Can people who are live streaming to the
20 Facebook Platform add video effects? 03:35:40

21 A. Can you give me an example of that. I
22 think I know what you're asking --

23 Q. Sure. Yeah, of course.
24 An example of a video effect of the sort
25 I'm talking about is like hearts in place of your 03:36:05

HIGHLY CONFIDENTIAL

1 eyes. 03:36:13

2 Have you ever seen that on the Internet,
3 videos where somebody's hearts are replaced by
4 special effect eyes?

5 MR. SCHWING: I think you may have that 03:36:27
6 backwards. Otherwise it would be a little creepy,
7 but...

8 MR. GOULD: Oh. Thank you, Austin.

9 Q. (By Mr. Gould) Have you ever seen a
10 video on the Internet where somebody's eyes are 03:36:36
11 replaced by special effect hearts?

12 A. I have.

13 Q. Okay. So that's --

14 A. Yeah.

15 Q. -- the kind of thing I'm talking about. 03:36:47

16 Do you understand the general category of
17 things I'm talking about here?

18 A. Yes.

19 Q. Does Facebook enable people who are live
20 streaming on the Facebook Platform to add effects 03:37:03
21 of that general sort?

22 A. I don't know if you can live stream with
23 a live version of these effects on Facebook.

24 Q. Okay. Does Facebook make available to
25 its users any tool or functionality by which 03:37:30

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HIGHLY CONFIDENTIAL

1 effects of the kind that we're talking about can be 03:37:36
2 added to prerecorded uploaded videos?

3 A. Yes.

4 Q. Okay. How long has that functionality or
5 tool been available to users? 03:37:50

6 A. I'm thinking about Facebook and I don't
7 know exactly. I know it's live today. And I don't
8 know exactly when it launched. But I know that it
9 must have been within like, say, the year or so --
10 in the past year or so. 03:38:15

11 Q. Can you -- say one user is live streaming
12 and wants to add in another user, who is also live
13 streaming.

14 Can those -- can one user add another
15 user to a live stream? 03:38:50

16 A. I think you're asking if -- are you
17 asking if they can be added midstream --

18 Q. Yes.

19 A. -- or they -- I -- I don't know if in the
20 middle of a stream you can add another streamer. 03:39:12

21 Q. Okay. Can you add another stream -- or
22 excuse me.

23 Can two separate streamers stream
24 together -- start streaming together?

25 MR. SCHWING: It's outside the scope. 03:39:35

HIGHLY CONFIDENTIAL

1 I've -- I've -- I've let these questions 03:39:37
2 go. But almost all of them have to do with
3 production of video, not access to video.
4 You can answer, if you know the answer.
5 THE DEPONENT: So I don't know if that 03:39:46
6 feature is available on Facebook or if that
7 production capability is available on Facebook.
8 Q. (By Mr. Gould) Okay. Can one user tag
9 another user on uploaded video?
10 A. I think a user can be tagged in a video 03:40:23
11 post. But no user can be, for example, tagged
12 inside the video.
13 Q. Does Facebook enable somebody who is
14 watching a live stream to share that live stream
15 with a Facebook friend? 03:40:54
16 A. I'm thinking about the product case you
17 just asked me. Users -- sorry. Make -- I want to
18 make sure I understand the question.
19 A -- a producer is live streaming. A --
20 Q. Yeah. 03:41:13
21 A user is watching that -- that live
22 stream and wants to share that live stream with a
23 friend.
24 Is there a share button that can do that?
25 A. I believe there is. 03:41:28

HIGHLY CONFIDENTIAL

1 Q. Okay. Are there -- can a user react -- 03:41:30
2 record a reaction to a live stream?

3 A. Sorry.

4 Q. Yeah.

5 A. Record? 03:41:54

6 Q. Yeah. Sorry. That was bad.

7 I'm going to, for the purposes of the
8 next question, only use the word "like" to mean
9 like -- or any other reaction. Like, for an
10 example, like a smiley, emoji, that kind of thing. 03:42:14

11 Does that make sense? Do you understand
12 what I mean?

13 A. It makes sense. I know what you mean.

14 Q. Okay. So under that definition of
15 "like," can a user like a live stream? 03:42:24

16 A. Yes.

17 Q. Okay. What are all the ways in which a
18 user can share an uploaded video with another user?

19 A. Okay. Let me think about that for a
20 second. 03:42:57

21 MR. GOULD: Sure.

22 MR. SCHWING: It's vague. Incomplete
23 hypothetical.

24 If you know, you can answer.

25 THE DEPONENT: I -- I can think of a 03:43:11

HIGHLY CONFIDENTIAL

1 couple ways that a user can share an uploaded video 03:43:13

2 with another user.

3 In your question, who was the poster and

4 who was the consumer and --

5 Q. (By Mr. Gould) Sure. 03:43:33

6 A. -- who's the other user?

7 Q. Yeah.

8 Let's say the user who wants to share is

9 a consumer of that uploaded video and wants to

10 share that uploaded video with another consumer of 03:43:47

11 that uploaded video.

12 A. Okay. Sorry. Now you -- now you

13 confused me with -- with one more thing.

14 Q. Oh, I --

15 A. Can we -- can -- can you -- can you give 03:43:59

16 me the example -- how about this -- could you give

17 me the example question as a -- can you -- I

18 don't -- I didn't understand what you meant by

19 "consumer."

20 Q. Okay. Okay. Okay. 03:44:14

21 A. Sorry.

22 Q. Sure.

23 Of course. Let me give you -- then let

24 me give you like a concrete example.

25 A. Right. 03:44:23

HIGHLY CONFIDENTIAL

1 Q. I record a video of my -- my child and 03:44:24

2 upload it to Facebook.

3 A. Uh-huh.

4 Q. My mom then watches that video and wants

5 to share it with my aunt. 03:44:50

6 What are the ways in which my mom could

7 share that video with my aunt, supposing they're

8 both Facebook users?

9 A. I --

10 MR. SCHWING: It's an incomplete 03:45:05

11 hypothetical.

12 Go ahead.

13 THE DEPONENT: If I'm understanding your

14 question correctly -- and I'll repeat what I

15 heard -- you uploaded a video. A friend of yours 03:45:15

16 watched that video, and then that friend wants to

17 share that video with a friend of theirs; is that

18 correct?

19 Q. (By Mr. Gould) That's correct.

20 A. So in this case, your mom could click -- 03:45:33

21 could, say, click the share button. And your mom

22 could share it with, you know, the -- the name of

23 that person who is your aunt.

24 Q. Could my mom re-post that video to her --

25 to her own profile? 03:45:56

HIGHLY CONFIDENTIAL

1 MR. SCHWING: Vague. And incomplete 03:46:00

2 hypothetical.

3 THE DEPONENT: Did you mean that -- well,
4 how about this.

5 Did you mean that you've uploaded a 03:46:12
6 video. It's a post. It sells --

7 (Simultaneously speaking.)

8 Q. (By Mr. Gould) Sure.

9 A. Right. Exactly. I mean, post is many
10 different -- okay. It's a post. 03:46:24

11 So this post, it has -- there's a URL
12 associated with this post. And could your --
13 are -- are you saying, could your mom, with whom
14 you're friends in this scenario, post that link,
15 like post your post as her post. 03:46:41

16 Sorry for the...

17 Q. No, no, no.

18 Thank you.

19 Maybe a better way of saying it is this.

20 A. Okay. 03:46:57

21 Q. If a -- if -- if a friend of mine wants
22 to re-post a video I have posted to my profile to
23 his or her own profile --

24 A. Right.

25 Q. -- is there a functionality button or 03:47:15

HIGHLY CONFIDENTIAL

1 feature provided by Facebook that allows that to be 03:47:20
2 done with a -- with a single click?

3 MR. SCHWING: Vague. Incomplete
4 hypothetical.

5 THE DEPONENT: I -- I -- I can't speak to 03:47:36
6 how many clicks, but you can share -- you can share
7 a video post. You can post, you know, to -- to
8 your friends another video post, someone else's
9 video post.

10 Q. (By Mr. Gould) Right. 03:48:01

11 A. Is that your question?

12 Q. That's my question.

13 A. Yeah.

14 Q. Could one of my friends share a video I
15 had posted via the Facebook Messenger app? 03:48:20

16 A. I want to say two things. I -- because I
17 think I understand your question.

18 You can -- you can share to Messenger.
19 You can, for example, copy the link and paste it
20 into Messenger. But I -- I want to make sure that 03:48:50
21 in this testimony I'm being really clear about what
22 the word "share" means.

23 Because in these few questions, I've
24 talked about sharing as like an outward activity.
25 But I want to make sure that nothing is lost in 03:49:06

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HIGHLY CONFIDENTIAL

1 translation regarding consumption because not 03:49:10
2 everything that is shared is viewable by the
3 recipient. So I want to be clear about what you
4 mean by "share."

5 Q. Sure. 03:49:26

6 A. And maybe we just should separate for
7 clarity the ability to share and then the ability
8 to view what was shared.

9 How's that?

10 Q. Sure. Absolutely. 03:49:35

11 If I upload a video, could -- as a post,
12 could a friend of mine share that post via
13 Facebook Messenger?

14 A. Yes.

15 Q. And suppose now that my friend shares 03:49:57
16 that video with a third user who is a mutual
17 friend. Got that?

18 So in other words, a friend both of the
19 sharer and of the poster.

20 A. So far -- so far so good. 03:50:21

21 Q. Could the third user then watch the video
22 if it was shared with him via the
23 Facebook Messenger?

24 MR. SCHWING: Vague. Incomplete
25 hypothetical. 03:50:46

HIGHLY CONFIDENTIAL

1 THE DEPONENT: Unfortunately -- so I 03:50:51
2 almost caught -- I -- I'm so sorry.

3 Q. (By Mr. Gould) No, that's fine.

4 A. Try, in this scenario -- because there
5 are a lot of users and there are a lot of friends. 03:50:59

6 Q. Yeah.

7 A. But go ahead, please, one more time on
8 who these hypotheticals are and like who's friends
9 with whom, one more time.

10 Q. Sure. 03:51:13

11 A. Okay.

12 Q. Sure.

13 So the first user uploads a video as a
14 post. That user is friends with a second user.
15 The second user is friends with a third user. 03:51:37

16 A. Okay.

17 Q. That third user is also friends with the
18 first user.

19 Follow me thus far?

20 A. So Mr. Gould -- 03:51:48

21 Q. Yeah.

22 A. Every- -- everybody is friends.

23 Q. Everybody is friends --

24 A. Right.

25 Q. -- in this hypothetical. 03:51:53

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1 A. In this hypothetical, everybody is 03:51:54
2 friends with each other.
3 Q. Correct.
4 A. Okay. Keep going.
5 Q. If a -- a video that the first friend -- 03:52:03
6 or the first user --
7 A. Yeah.
8 Q. -- posts, and the second user then shares
9 it with the third user via Facebook Messenger, is
10 the third user then able to click on the shared 03:52:25
11 link and watch the video?
12 MR. SCHWING: I'm going to object. It's
13 outside the scope of the deposition. There's a
14 separate topic for privacy and apps settings. It's
15 vague. Incomplete hypothetical. 03:52:41
16 THE DEPONENT: Can I tell you what I
17 know?
18 Q. (By Mr. Gould) Sure. Please.
19 A. It -- it depends on the settings.
20 Q. Right. 03:52:53
21 A. I can give you scenarios where it's
22 possible. I can give you scenarios where it's not
23 possible. So --
24 Q. Totally. Totally. Totally.
25 A. -- it all depends on those privacy 03:52:58

HIGHLY CONFIDENTIAL

1 settings. 03:53:00

2 Q. Right.

3 There are privacy settings under which it

4 is possible for that third user to watch the video

5 under the scenario I just gave, though, correct? 03:53:14

6 MR. SCHWING: Same objections.

7 THE DEPONENT: Based on my understanding,

8 Mr. Gould, if the right privacy settings are,

9 then -- then, yes --

10 Q. (By Mr. Gould) Okay. 03:53:33

11 A. -- it's possible.

12 Q. Can -- sorry. Let me step back.

13 Are Facebook stories created by users

14 themselves?

15 A. As -- sorry. As opposed to what? 03:53:58

16 Q. Yeah.

17 As opposed to like being, say,

18 automatically created by -- for them by algorithm

19 or something.

20 A. Oh. A user can create a Facebook 03:54:11

21 story -- let me make sure I understand what you

22 mean by --

23 Q. Yeah. Sorry.

24 A. What's your -- how are you defining

25 Facebook story? 03:54:32

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HIGHLY CONFIDENTIAL

1 Q. Well, how -- how -- I don't mean to be 03:54:32
2 difficult, but how would you define a Facebook
3 story?

4 A. Here's how I would define a Facebook
5 story. Maybe it's what you were mentioning. 03:54:41

6 When you open up newsfeed at the top of
7 newsfeed, sometimes there's a horizontal tray -- it
8 actually says stories.

9 I only say this because the word "story"
10 can be used in different capacities, but -- are you 03:54:58
11 referring to the -- the horizontal tray content at
12 the top of -- okay.

13 Q. Correct.

14 A. And -- I'm not aware of any automatic --

15 Q. Okay. 03:55:19

16 A. Okay.

17 Q. Great.

18 So can a user include in a Facebook story
19 a uploaded video or a live stream from one of his
20 or her friends? 03:55:47

21 MR. SCHWING: It's outside the scope.
22 Incomplete hypothetical.

23 You can answer.

24 THE DEPONENT: Mr. Gould, are you asking
25 if a user creates a story, can they embed in that 03:56:10

HIGHLY CONFIDENTIAL

1 story somebody else's post? 03:56:17

2 Q. (By Mr. Gould) Yes. Precisely.

3 A. Yeah. On the production -- I -- I
4 wouldn't know, just based on what we talked about
5 in the production side. 03:56:26

6 Q. Okay. Can a member of a group re-post
7 somebody else's post on a group page?

8 A. To where?

9 Q. So Facebook groups have Facebook pages
10 that are devoted to that group, correct? 03:57:04

11 A. More -- more or less. I -- I understand
12 what you mean.

13 Q. Okay. How -- how would you -- is it --
14 sorry. Go ahead.

15 A. No, no. You go. 03:57:17

16 Q. Okay. If I spoke of the page for a
17 Facebook group, would you know what I was talking
18 about?

19 A. I would call it the group itself.

20 Q. Okay. Great. 03:57:38

21 Okay. Then that's the term we'll use.

22 A. Sure.

23 Q. Can the member of a group re-post
24 somebody else's post to a Facebook group?

25 A. Yes. 03:57:58

HIGHLY CONFIDENTIAL

1 MR. SCHWING: Incomplete -- incomplete 03:57:58

2 hypothetical.

3 Q. (By Mr. Gould) Can -- what sort of
4 entities are able to create a Facebook page?

5 A. So -- 03:58:19

6 Q. You know what, Mr. Miller, I'm sorry. I
7 don't mean to interrupt you. I -- I hope this will
8 make it easier.

9 A. Okay.

10 Q. A wide variety of entities can create 03:58:25
11 Facebook pages; is that fair to say?

12 A. Yes.

13 Q. Okay. So like nonprofit organizations
14 can create Facebook pages, correct?

15 A. Correct. 03:58:41

16 Q. Law firms can create Facebook pages,
17 correct?

18 A. Correct.

19 Q. Companies -- for-profit companies can
20 create Facebook pages, correct? 03:58:53

21 A. Correct.

22 Q. Okay. Can municipalities create Facebook
23 pages?

24 A. So --

25 MR. SCHWING: Outside the scope. 03:59:07

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HIGHLY CONFIDENTIAL

1 THE DEPONENT: So I -- I -- I don't want 03:59:09
2 to speculate --

3 Q. (By Mr. Gould) Okay.

4 A. -- Mr. Gould and -- yeah.

5 Q. Okay. 03:59:14

6 A. Yeah.

7 Q. Fair enough. Fair enough.

8 So speaking then of the page -- a

9 Facebook page that's been created by an entity --

10 A. Got it. 03:59:32

11 Q. -- can an entity re-post on its page a

12 post originally posted to Facebook by somebody

13 else?

14 MR. SCHWING: It's outside the scope of

15 the deposition. To the extent it implicates 03:59:54

16 privacy or apps settings, it's an incomplete

17 hypothetical and vague.

18 Q. (By Mr. Gould) Let me restate.

19 If the correct privacy settings have been

20 selected, can a page re-post a post that was 04:00:17

21 originally posted to the Facebook Platform by

22 somebody else?

23 MR. SCHWING: It's vague.

24 THE DEPONENT: Can -- to -- I want to be

25 helpful. 04:00:38

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HIGHLY CONFIDENTIAL

1 Q. (By Mr. Gould) Yeah. 04:00:38

2 A. So within the video topic for which I
3 prepared, can you give me a hypothetical?

4 Q. Sure. Yeah. Sorry.

5 I'm just trying to -- I thought maybe 04:00:51
6 talking about posts would be easier, but clearly
7 not.

8 I'm talking -- let -- would it be easier
9 just to talk specifically about a video that has
10 been posted to Facebook? 04:01:05

11 Let's talk about that. Okay?

12 Does that make sense to you? Would you
13 know what I'm talking about if I talked about a
14 video posted to Facebook?

15 A. Yeah. 04:01:15

16 MR. SCHWING: It calls for speculation as
17 to what you would think.

18 Q. (By Mr. Gould) Okay. Can -- if the
19 correct privacy settings are in place, can a page
20 re-post a video that had originally been posted -- 04:01:27
21 posted to the Facebook Platform by another user or
22 another page?

23 MR. SCHWING: It's an incomplete
24 hypothetical. It's vague.

25 THE DEPONENT: Can -- 04:01:53

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HIGHLY CONFIDENTIAL

1 MR. SCHWING: Outside of the scope of the 04:01:53
2 deposition, to the extent it implicates privacy or
3 app settings.

4 THE DEPONENT: All right. Mr. --
5 Mr. Gould, can you give me your hypothetical using 04:02:04
6 a video --

7 Q. (By Mr. Gould) Oh, okay. You want --
8 you want a concrete example -- oh, sorry.

9 Go ahead.

10 A. Sorry. Can you -- because I'm prepared 04:02:13
11 to speak about how users -- how the platform has
12 allowed users to see video.

13 Q. Yeah.

14 A. With respect to how I prepared, can you
15 please give me the hypothetical using video and 04:02:26
16 using it in chronological order -- using the
17 scenario in chronological order.

18 Q. Sure.

19 On Thursday, a Facebook user posts a
20 video to the Facebook Platform. 04:02:51

21 A. Okay.

22 Q. On Friday, a page wants to re-post that
23 video to its own page.

24 Assuming the correct privacy settings are
25 in place, can that page re-post that video? 04:03:10

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HIGHLY CONFIDENTIAL

1 MR. SCHWING: It's vague as to correct 04:03:20
2 privacy settings.

3 THE DEPONENT: Let me -- let me -- let me
4 try to repeat what I heard.

5 On day one, a user posts a video -- 04:03:33
6 let -- how about this, on day one, a user posts a
7 video to the Facebook Platform and marks it as
8 public.

9 Q. (By Mr. Gould) Yes. Great.

10 A. That part's good? 04:03:50

11 Q. Sure. Fabulous.

12 A. On day -- somehow, because it's public, a
13 page -- well, it's actually -- it's a person,
14 because pages are operated by people. But there's
15 a person who found -- who saw that public post. 04:04:05

16 So far so good?

17 Q. Sure.

18 A. Now, that person also operates a page and
19 they -- they want to -- you know, for example, take
20 the link of that public post, paste it into their 04:04:21
21 page's post, and can they post that?

22 The answer is --

23 Q. That's the question.

24 A. And the answer is yes.

25 Q. Okay. 04:04:33

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HIGHLY CONFIDENTIAL

1 that said, I'm not prepared to talk about how 04:16:22

2 Facebook helps the production of the video.

3 Q. (By Mr. Gould) How about whether

4 Facebook provides like technical assistance in

5 uploading or otherwise making videos available, are 04:16:41

6 you prepared to testify about whether Facebook

7 offers that kind of assistance to video content

8 creators who want to make their content available

9 on the Facebook Platform?

10 A. I -- I wouldn't be the right person for 04:17:05

11 that and it's not part of my topic.

12 Q. Okay. Great. So then I won't ask you

13 about it.

14 I want to go back briefly, I hope, to the

15 improvements in ranking that we were talking about 04:17:22

16 relative to the newsfeed.

17 Do you remember we were talking about

18 that?

19 A. I remember.

20 Q. Okay. Am I mischaracterizing your 04:17:32

21 testimony when I say that part of the ranking was a

22 machine-learning system that was intended to

23 discern what sort of video content was at issue

24 when -- when somebody posted a video to Facebook?

25 A. I didn't -- 04:18:20

HIGHLY CONFIDENTIAL

1 MR. SCHWING: Objection. 04:18:22

2 THE DEPONENT: I didn't catch the

3 question --

4 (Simultaneously speaking.)

5 Q. (By Mr. Gould) Sure. Sure. 04:18:24

6 A. -- in that -- in that --

7 Q. Okay. Let -- then let me ask it in

8 stages.

9 When did Facebook stop presenting the

10 newsfeed chronologically, remind me? 04:18:42

11 A. Yeah. Let -- in 2011.

12 Q. And beginning in 2011, it began to

13 present users in a news- -- with their newsfeed in

14 such a way -- in a way that was intended to rank

15 that content on the newsfeed. 04:19:18

16 A. What -- what did you mean by "with their

17 newsfeed" --

18 Q. Yeah.

19 Okay. After Facebook stopped presenting

20 content chronologically to users on their 04:19:35

21 newsfeed --

22 A. Right.

23 Q. -- what criteria did Facebook then begin

24 to use in order to present content to users on

25 their newsfeed? 04:19:51

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[illegible]

HIGHLY CONFIDENTIAL

1

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10

A. So I'm only repeating what I had said

04:22:03

11

earlier, at a very high level, that said --

12

Q. Okay.

13

A. Oh, did -- because it's in my testimony,

14

is that okay or should I restate?

15

Q. If you could restate, that would be super

04:22:16

16

helpful for present purposes.

17

A. Yeah.

18

At a -- at a very high level, to restate,

19

█

█

█

█

█

█

04:22:44

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HIGHLY CONFIDENTIAL

1

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

8

A. I'm going to change that word.

9

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Q. Are you able to put any approximate date

24

by which you are sure that content analysis was in

25

place?

04:24:46

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HIGHLY CONFIDENTIAL

1 A. Well, here's an example. 04:24:49

2 When I joined the company at the end of
3 2018, that type of content analysis or content
4 understanding was in place.

5 Q. Okay. Excluding any lawyers, who did you 04:25:03
6 speak to as part of your preparation for today's
7 deposition?

8 A. I spoke to Ramya Seetharaman. I spoke to
9 Saurabh Gupta. I spoke to Anjana Dasu. I spoke to
10 Hari Jayaraman. I spoke to Akos Lada. I spoke to 04:25:59
11 Karsten Hansen.

12 And I don't remember how many people I
13 read off.

14 Q. That's fine.

15 A. Oh, I'm sorry. 04:26:33

16 Q. No. You were going to mention -- did
17 you --

18 (Simultaneously speaking.)

19 THE DEPONENT: Karan Singh.

20 Q. (By Mr. Gould) -- you were going to 04:26:37
21 mention somebody else --

22 A. Karan Singh.

23 Yeah, Karan -- Karan Singh.

24 Q. Are the people you just mentioned in
25 different divisions or groups within the Facebook 04:26:52

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HIGHLY CONFIDENTIAL

1 company? 04:26:55

2 A. Yes.

3 Q. Okay. Go through, if you wouldn't mind,

4 and list the groups or divisions in which all those

5 people work. 04:27:14

6 A. Okay.

7 MR. SCHWING: Ben, could I make a

8 friendly suggestion?

9 I don't know if you have the

10 transcript -- the Live Note up, or whatever. But 04:27:19

11 maybe you could just give him the names or

12 something. I don't -- just -- it may make it

13 easier.

14 MR. GOULD: Okay. A lot of them are --

15 are not really spelled in the -- 04:27:28

16 MR. SCHWING: No.

17 MR. GOULD: -- in the real time.

18 MR. SCHWING: Maybe you could just

19 broadly --

20 MR. GOULD: Yeah. Right. I'm not -- 04:27:42

21 (Simultaneously speaking.)

22 MR. SCHWING: I don't mean -- I don't

23 mean to interfere. I'll -- I'll hand you the reins

24 back. I'm just trying to think about how do we --

25 MR. GOULD: No, no, totally, Austin. I 04:27:46

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HIGHLY CONFIDENTIAL

1 appreciate that. 04:27:48

2 Q. (By Mr. Gould) Here's what -- here's
3 what I'd like you to do, Mr. Miller.

4 I don't want you to match up names --

5 A. Okay. 04:27:55

6 Q. -- with groups or divisions. I just want
7 you to list the divisions in which those people
8 work.

9 A. Yeah.

10 So for example, Ramya is in -- was in -- 04:28:06
11 sorry -- was in, say, newsfeed. Now is in
12 integrity.

13 Saurabh is in video ranking. Anjana is
14 in video.

15 I'm just trying to list all the areas. I 04:28:37
16 mentioned integrity. I mentioned newsfeed. I'm
17 just going through some of the names.

18 Q. Sure. Take your time.

19 A. Newsfeed video ranking, you know, is --
20 is slightly different than video ranking. I -- I 04:29:02
21 think -- I mean, unless I see the names again, I
22 think that that's exhaustive.

23 Q. Okay. That's fine.

24 Do you know approximately how many

25 Facebook employees work on video ranking? 04:29:23

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```
4      How video is shown to its users, I -- I
5      didn't -- I didn't count like org charts and          04:30:02
6      things.
```

8	Fair to say, though, that there is a	
9	group or division within Facebook that has the name	
10	video ranking?	04:30:12

12 Q. Okay. You listed, I believe, a group or
13 division that you gave the name video to, like full
14 stop?

16 Q. And I take it you're not prepared to
17 testify today about how many employees are in that
18 division or group?

20	Q. Okay. Fair enough.	04:30:46
----	-----------------------	----------

24 MR. SCHWING: It's outside the scope.

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HIGHLY CONFIDENTIAL

1 only because of the scope of -- of 9c. 04:31:04

2 Q. (By Mr. Gould) Okay. Okay. Fair
3 enough.

4 A. Yeah.

5 Q. It sounds to me, though, like from your 04:31:12
6 testimony, that at least there is a division or
7 group within Facebook that -- that is commonly
8 referred to as video, correct?

9 A. There -- video is now -- that might not
10 be the right like -- that might be a broad word, 04:31:46
11 but I think it has -- it -- there's a loose
12 meaning, and so that's why I want to be really
13 careful about --

14 Q. Yeah.

15 A. I want to be like accurate about how I 04:32:00
16 answer your question, but -- so one more time?

17 Q. Let me put my question this way.

18 A. Yeah.

19 Q. Is it fair to say that whatever the
20 official name of the group or division, there is a 04:32:16
21 group or division within Facebook that is commonly
22 referred to by Facebook employees as video?

23 A. Yes.

24 Q. Okay. You also, I believe, listed a
25 group or division that you gave the name newsfeed 04:32:45

HIGHLY CONFIDENTIAL

1 video ranking to, correct? 04:32:48

2 A. Correct.

3 Q. Okay. And you're not prepared to testify

4 today about how many employees are in that group or

5 division, correct? 04:32:59

6 MR. SCHWING: Outside the scope.

7 THE DEPONENT: And -- and I would have no

8 clue.

9 Q. (By Mr. Gould) Okay. And any of the

10 groups or divisions we've talked about, do you know 04:33:08

11 how long they've been around?

12 MR. SCHWING: It's outside the scope.

13 THE DEPONENT: I'm -- I'm trying to --

14 I'm seriously trying to be helpful, but --

15 Q. (By Mr. Gould) Yeah. Yeah. Yeah. I 04:33:26

16 get it.

17 A. I mean, based on when I joined and based

18 on how I prepared, I -- I didn't look into org

19 history.

20 Q. Okay. Fair to say, though, that there is 04:33:35

21 a group or division within Facebook that is

22 commonly referred to by Facebook employees as

23 newsfeed video ranking?

24 A. No.

25 Q. Okay. Fair enough. 04:34:04

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HIGHLY CONFIDENTIAL

1 A. It would -- it would be called -- sorry. 04:34:05

2 No.

3 Q. What would it be called?

4 A. So when I said -- for example, the person

5 I talked to in -- Karan Singh, I would just say 04:34:17

6 newsfeed ranking, period.

7 Q. Okay. Okay.

8 A. Yeah.

9 Q. Is there a group -- well, never mind.

10 Okay. What documents did you review in 04:34:52

11 preparation for today's deposition?

12 A. I -- let me think about this for a second

13 because I reviewed a lot of documents.

14 Q. Yeah. Take your time.

15 A. I -- I read over all the documents that 04:35:08

16 were sent over a few days ago, 20-ish, whatever.

17 I read over the notice and the complaint.

18 I also read over documents that talked

19 about some of these product changes to how the

20 platform showed video to users over time. 04:35:31

21 MR. GOULD: Okay. I think that does it

22 for me today, unless Mr. Schwing has redirect that

23 raises further questions on my part.

24 MR. SCHWING: I just have a few

25 questions. 04:35:54

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HIGHLY CONFIDENTIAL

1 EXAMINATION 04:35:56

2 BY MR. SCHWING:

3 Q. Mr. Miller, is this a good time to go

4 over a couple questions?

5 A. Sure. 04:36:02

6 Q. Okay. I'll be brief.

7 You were asked some questions and gave

8 some testimony about when users could share videos

9 or posts with video with others.

10 Do you remember that? 04:36:18

11 A. I remember.

12 Q. Okay. And is it your understanding that

13 someone can try to share a video or post with a

14 video, but whether another user can actually get

15 access and see that post or video would depend on 04:36:32

16 the original poster's privacy settings?

17 A. That's -- I'm so sorry. It's late in the

18 day. I'm so sorry for you to have to repeat the

19 question --

20 Q. No problem. 04:36:48

21 A. -- but...

22 Q. Is it your understanding that whether

23 or -- let me start over.

24 A. Yeah. I apologize.

25 Q. It's -- it's late in the day for me, too. 04:36:58

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HIGHLY CONFIDENTIAL

1 Is it your understanding that somebody 04:37:01
2 could try to share a video or post with a video in
3 it with another user, but whether that user could
4 actually see the video or the post with the video
5 would depend on the privacy settings that had been 04:37:22
6 set with respect to that content?

7 A. That's correct.

8 Can -- am I allowed to say anything more
9 on that or -- or --

10 Q. I don't -- I don't think you need to. 04:37:36

11 A. Okay.

12 Q. I think if it's correct, that's fine.

13 A. Great.

14 MR. SCHWING: All right. I don't -- I
15 don't have anything else. 04:37:44

16 MR. GOULD: Okay. Nothing further from
17 me.

18 MR. SCHWING: Thanks so much, Mr. Miller.
19 Maybe you could just go to the breakout room, just
20 so I can thank you and say goodbye to you and 04:37:55
21 hopefully won't --

22 THE DEPONENT: Okay.

23 MR. GOULD: Mr. Miller, thank you. I
24 really appreciate it. And I appreciate --

25 SPECIAL MASTER GARRIE: Congratulations. 04:38:02

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HIGHLY CONFIDENTIAL

1 MR. GOULD: -- your conscientious 04:38:02

2 efforts.

3 THE VIDEOGRAPHER: We're off the record.

4 It's 4:38 p.m.

5 (Recess taken.) 04:38:26

6 THE VIDEOGRAPHER: Back on the record.

7 It's 4:38 p.m.

8 MR. SCHWING: Okay. We -- I just wanted

9 to come back on the record to indicate that the

10 transcript should be treated as "Highly 04:39:02

11 Confidential."

12 The witness will receive the transcript

13 and will review it to make any corrections, will do

14 that within 45 days of receipt of the -- the

15 transcript. 04:39:15

16 MR. GOULD: And that does it, I think.

17 THE VIDEOGRAPHER: That does it. Okay.

18 Off the record. It's 4:39 p.m.

19 (TIME NOTED: 4:39 p.m.)

20 04:39:28

21

22 ---o0o---

23

24

25

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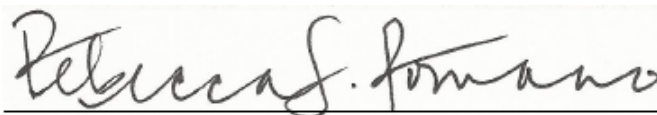
1 I, Rebecca L. Romano, a Registered
2 Professional Reporter, Certified Shorthand
3 Reporter, Certified Court Reporter, do hereby
4 certify:

5 That the foregoing proceedings were taken
6 before me remotely at the time and place herein set
7 forth; that any deponents in the foregoing
8 proceedings, prior to testifying, were administered
9 an oath; that a record of the proceedings was made
10 by me using machine shorthand which was thereafter
11 transcribed under my direction; that the foregoing
12 transcript is true record of the testimony given.

13 Further, that if the foregoing pertains to the
14 original transcript of a deposition in a Federal
15 Case, before completion of the proceedings, review
16 of the transcript [X] was [] was not requested.

17 I further certify I am neither financially
18 interested in the action nor a relative or employee
19 of any attorney or any party to this action.

20 IN WITNESS WHEREOF, I have this date
21 subscribed my name this 27th day of July, 2022.

22
23 

24 Rebecca L. Romano, RPR, CCR

25 CSR. No 12546

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HIGHLY CONFIDENTIAL

RE: FACEBOOK, INC., CONSUMER USER PROFILE LITIGATION
DAVID MILLER (JOB NO. 5300521)

E R R A T A S H E E T

PAGE 17 LINE 14 CHANGE "would go to" to "would --
could go to"

REASON Mistranscription

PAGE 19 LINE 14 CHANGE "I don't" to "I don't remember
when it was launched"

REASON Mistranscription

PAGE 25 LINE 12 CHANGE "if -- video" to "if -- the profile
owner had posted a video"

REASON Mistranscription

PAGE 26 LINE 18 CHANGE "video on 2016" to "video
around 2016"

REASON Mistranscription

PAGE 30 LINE 12 CHANGE "or let's" to "well let's"

REASON Mistranscription

PAGE 30 LINE 15 CHANGE "across all -- across all the"
to "across all the -- across all the"

REASON Transcription Error

DAVID MILLER

Date

HIGHLY CONFIDENTIAL

RE: FACEBOOK, INC., CONSUMER USER PROFILE LITIGATION
DAVID MILLER (JOB NO. 5300521)

E R R A T A S H E E T

PAGE 34 LINE 23 CHANGE "experience and the user"
to "experience and the users"

REASON Mistranscription

PAGE 45 LINE 14 CHANGE "number of services" to
"number of surfaces"

REASON Mistranscription

PAGE 46 LINE 3 CHANGE "services" to "surfaces"

REASON Mistranscription

PAGE 49 LINE 19-20 CHANGE "oh, yeah, I think that video
is about dogs." to ""oh, yeah, I think that video is about dogs.""

REASON Mistranscription

PAGE 56 LINE 10 CHANGE "A. Yes." to "A. Yeah."

REASON Mistranscription

PAGE 57 LINE 17 CHANGE "typically" to "typical"

REASON Mistranscription

DAVID MILLER

Date

HIGHLY CONFIDENTIAL

1 RE: FACEBOOK, INC., CONSUMER USER PROFILE LITIGATION
2 DAVID MILLER (JOB NO. 5300521)

E R R A T A S H E E T

3
4 PAGE 62 LINE 5 CHANGE "live stream video" to "live
5 streamed video"

6 REASON Mistranscription

7 PAGE 62 LINE 7-8 CHANGE "like Benjamin Gould was
8 live." to "like, "Benjamin Gould was live.""

9 REASON Mistranscription

10 PAGE 65 LINE 11 CHANGE "Use a little" to "I could use
11 a little"

12 REASON Mistranscription

13 PAGE 76 LINE 4 CHANGE "where a video has shown" to
14 "where video is shown"

15 REASON Misspoke

16 PAGE 89 LINE 8 CHANGE "example that" to "example
17 of that"

18 REASON Mistranscription

19 PAGE 99 LINE 6 CHANGE "It sells" to "It's also"

20
21 REASON Mistranscription

22
23
24 DAVID MILLER

Date

HIGHLY CONFIDENTIAL

1 RE: FACEBOOK, INC., CONSUMER USER PROFILE LITIGATION
2 DAVID MILLER (JOB NO. 5300521)

E R R A T A S H E E T

3
4 PAGE 101 LINE 6 CHANGE "we just should" to "we
5 should just"

6 REASON Mistranscription

7 PAGE 105 LINE 11 CHANGE "horizontal tray content" to
8 "horizontal tray of content"

9 REASON Mistranscription

10 PAGE 106 LINE 15 CHANGE "No, no. You go." to "No,
11 you go."

12 REASON Mistranscription

13 PAGE 117 LINE 21 CHANGE [REDACTED]

14
15 REASON Mistranscription

16 PAGE 118 LINE 8 CHANGE "Ramya Seetharaman" to
17 "Ramya Sethuraman"

18 REASON Mistranscription

19 PAGE 118 LINE 11 CHANGE "Karsten Hansen" to
20 "Carsten Hansen"

21 REASON Mistranscription

22
23
24 DAVID MILLER

Date

HIGHLY CONFIDENTIAL

RE: FACEBOOK, INC., CONSUMER USER PROFILE LITIGATION
DAVID MILLER (JOB NO. 5300521)

E R R A T A S H E E T

PAGE 121 LINE 3 CHANGE "what I prepared for today."
to "what I prepared for today --"

REASON Mistranscription

PAGE 121 LINE 4 CHANGE "How video" to "how video"
Mistranscription

REASON _____

PAGE _____ LINE _____ CHANGE _____

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REASON _____

David Miller *9/9/2022*

DAVID MILLER

Date

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[& - access]

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& 1:14 2:19 4:15 5:5 6:5 9:23 129:23 130:9	33:10,16 39:3,10 39:12,19 42:17 43:6,7,20 45:11 49:24 50:16,20 51:1 56:6,11 74:4,22 76:9,23	253-9706 6:19 27 129:3 27th 128:21 2843 1:4 2:4 2:03 45:5 2:59 77:6	7
0			72 8:11 7321 128:23 75201 5:19
02843 1:6 2:6			8
1	2008 28:7,12 2009 31:14 51:22 2010 29:14 51:12 51:15 2011 47:9,19,20 114:11,12 117:15,22 2012 32:5 51:4 2014 90:6 2015 19:11 88:23 2016 26:11,13,18 27:1,4 31:21 60:25 88:2,3 2017 22:19 28:22 85:17 87:25 2018 118:3 2019 92:17 2022 1:16 2:18 9:1,7 128:21 129:3,5 131:7 2025.520 129:9 129:12 206 3:14 2100 5:18 212 5:11 213 6:10,19 214 5:20 22 1:16 2:18 9:1 129:5 229-7523 6:10	3 30 1:12 130:1 3000 4:20 301 4:9 3200 3:12 32nd 6:17 333 6:8 3491 1:23 351-6381 5:11 393-8200 4:22 3:08 77:9	801 4:8 805 4:11 827 1:22
1 1:17,25 8:4 130:1 10166-0193 5:10 11 8:5 1201 3:11 125 8:6 12546 1:21 128:25 12:41 2:18 9:2,6 12:44 12:23 12:50 13:1 132 1:25 18 1:6 2:6 1:45 45:2 1:50 44:23		4 415 4:22 45 127:14 456-1496 4:11 4:05 112:12 4:15 112:15 4:38 127:4,7 4:39 127:18,19	9 90013 6:18 90071-3197 6:9 93101 4:10 94105-0921 4:21 98101 3:13 9a 75:15 9b 75:16 9c 42:6 122:1
2		5 5300521 1:24 129:5 132:2 555 4:19 6:16 5th 6:16	a ability 15:23 18:19 20:12,19 21:16,21 26:17 31:7 85:3 87:3 101:7,7 abimbola 7:7 able 13:6 14:17 15:4,21 27:7 34:25 42:13 50:1 57:18 73:19 75:17 103:10 107:4 117:23 absolutely 101:10 access 14:17 23:23 24:13
20 27:2 68:7 124:16 20-0466 1:22 200 5:9 50:19 2001 5:17 2005 14:13 2005/2006 15:3 2006 13:11,19,23 15:22 16:10,14 16:15 20:10 27:7,9 56:2 76:6 2007 16:22,24 17:6,13 18:3,5		6 6 1:12 619 8:11 72:6 623-1900 3:14	

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[access - associate]

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[video - yeah]

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Federal Rules of Civil Procedure

Rule 30

(e) Review By the Witness; Changes.

(1) Review; Statement of Changes. On request by the deponent or a party before the deposition is completed, the deponent must be allowed 30 days after being notified by the officer that the transcript or recording is available in which:

(A) to review the transcript or recording; and

(B) if there are changes in form or substance, to sign a statement listing the changes and the reasons for making them.

(2) Changes Indicated in the Officer's Certificate. The officer must note in the certificate prescribed by Rule 30(f)(1) whether a review was requested and, if so, must attach any changes the deponent makes during the 30-day period.

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